

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIHAD THAIFF-ALLAH MONSOUR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58148

**FILED**

JUN 13 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

ORDER OF AFFIRMANCE

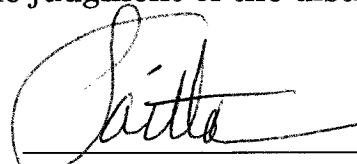
This is an appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.


Appellant filed his petition on December 31, 2009, more than a year after entry of the judgment of conviction on October 8, 2008. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See id.

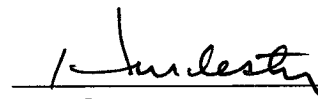
Appellant argues that he demonstrated good cause to excuse the procedural bar because he believed that his counsel had filed an appeal from his judgment of conviction, and he filed a post-conviction petition as soon as he learned that a direct appeal had not been filed. We conclude that the district court did not err in rejecting appellant's good-cause claim. Appellant made several inconsistent allegations to the district court as to why his petition was untimely filed. In his petition, he alleged that his counsel should have filed a direct appeal on his behalf because counsel was aware that appellant had filed appeals throughout his case, and he also alleged that he had asked counsel to appeal but counsel refused to do so without more money. Appellant later asserted that he asked counsel to appeal and believed that an appeal was pending because counsel never stated that he would not appeal. At the evidentiary

hearing, trial counsel testified that he did not remember being asked to appeal and that he would have filed a notice of appeal if appellant had requested an appeal. Counsel further testified that he was appointed and paid by the State, so he would not have requested money from appellant in order to file an appeal. Counsel corresponded with appellant shortly after the sentencing hearing, at which time counsel provided him with a blank habeas petition and informed him about the deadline for filing a habeas petition. Based on appellant's allegations and the testimony provided at the hearing, the district court determined that appellant's claims were not credible and appellant failed to demonstrate that he told trial counsel to file an appeal or that he believed an appeal was pending. We conclude that the district court's findings are supported by substantial evidence and are not clearly wrong.<sup>1</sup> See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

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<sup>1</sup>Monsour also alleged in his petition that he was moved within the prison system several times and misplaced his paperwork. To the extent that he argues that the district court erred in finding that this did not constitute good cause, his argument fails because he did not explain what paperwork he misplaced or how it prevented him from filing a timely post-conviction petition.

cc: Hon. Connie J. Steinheimer, District Judge  
Story Law Group  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk