

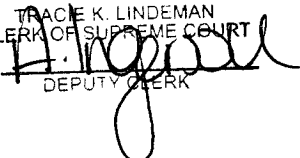
IN THE SUPREME COURT OF THE STATE OF NEVADA

RONDALE FLEMMING MATTHEWS
A/K/A RONDALE F. MATHEWS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59708

FILED

JUL 25 2012

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant filed his petition on February 25, 2011, over a year and a half after the judgment of conviction was filed on July 22, 2009.² Thus, appellant's petition was untimely filed. See NRS 34.726(1).


¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²Appellant filed a proper person notice of appeal from the judgment of conviction on December 7, 2010, but his direct appeal was dismissed for lack of jurisdiction because his notice of appeal was untimely filed. Matthews v. State, Docket No. 57330 (Order Dismissing Appeal, December 30, 2010). Thus, the proper date to measure timeliness is the entry of the judgment of conviction. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

Appellant's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See id.

Appellant appeared to claim that his counsel's failure to file a timely direct appeal constituted good cause to excuse the delay. We conclude that the district court did not err in rejecting this good cause argument. Appellant asserted in his petition that he asked counsel to file an appeal after sentencing and counsel stated that he would visit appellant the following week to discuss it. Appellant did not provide any facts indicating that he believed an appeal had been filed or that he filed his petition within a reasonable time of learning that counsel had not filed an appeal. See Hathaway v. State, 119 Nev. 248, 254-55, 71 P.3d 503, 507-08 (2003). Therefore, the district court did not err in denying his petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
Rondale Flemming Matthews
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk