

IN THE SUPREME COURT OF THE STATE OF NEVADA

LONNIE JAY LOUCKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60225

FILED

OCT 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
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 and a motion to correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

In his habeas petition, filed on November 16, 2011, appellant claimed that he received ineffective assistance from trial counsel and that his sentence was illegal. The district court found, and appellant has not disputed, that appellant's sentence was completed by November 7, 2007. Because appellant discharged his sentence prior to filing the instant post-conviction petition for a writ of habeas corpus, the petition was not cognizable. Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999); Nev. Const. art. 6, § 6(1); NRS 34.360; NRS 34.724(1).

Moreover, as a separate and independent ground to deny the relief sought in his petition, appellant filed his petition more than four

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).

years after the filing of the judgment of conviction on May 16, 2007.² Appellant's petition was therefore untimely filed and, accordingly, was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1).

Appellant argued that he had cause to excuse the delay because official interference made compliance impracticable. Specifically, appellant argued that the current conviction was based on a prior conviction that the Department of Parole and Probation should have had amended in 2005 but that was not amended until September 1, 2010. Even assuming that the amended judgment of conviction in an unrelated case could have provided cause to excuse the delay, appellant filed the instant petition more than one year after the filing of the amended judgment of conviction. He thus failed to establish good cause for the entire length of the delay. See Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). We therefore conclude that the district court did not err in denying appellant's petition as procedurally barred.

In his motion to correct an illegal sentence, filed on November 16, 2011, appellant claimed that "the arrest and conviction of sex offender registration and failure to change address is facially invalid." Appellant, who was convicted only of conspiracy to commit loitering for the purpose of prostitution, failed to demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). We therefore conclude that the district court did not err in denying appellant's motion.

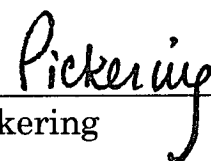
²No direct appeal was taken.

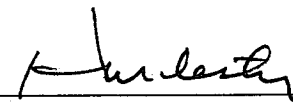
We further conclude that the district court did not abuse its discretion in not appointing post-conviction counsel to represent appellant.

See NRS 34.750. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Elissa F. Cadish, District Judge
Lonnie Jay Loucks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³In light of our disposition, appellant's motion to hold this case in abeyance is denied.