

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN EUGENE SABO,
Appellant,
vs.
JAMES BENEDETTI, WARDEN,
Respondent.

No. 60426

FILED

DEC 13 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK


ORDER OF AFFIRMANCE


This is an appeal from a district court order denying appellant Stephen Eugene Sabo's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

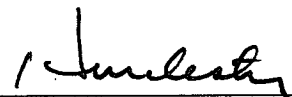
Appellant Stephen Eugene Sabo contends that the district court abused its discretion by not finding that counsel was ineffective for failing to move to require the State to identify and produce the confidential informant at trial. Sabo's petition, however, was untimely because it was filed one year and a day after this court issued its remittitur in his direct appeal. See NRS 34.726(1). Sabo's claim that his petition was not untimely because it was filed within one-year after the district court clerk's office received the remittitur is without merit. See Gonzales v. State, 118 Nev. 590, 593, 53 P.3d 901, 902 (2002) (holding that language in NRS 34.726(1) is "clear and unambiguous" and provides that a habeas petition "must be filed with the district court 'within 1 year after the supreme court issues its remittitur'" after a timely direct appeal (emphasis added)). Therefore, the district court should have denied Sabo's petition on this basis alone. See State v. Dist. Ct. (Riker), 121 Nev. 225, 236, 112 P.3d 1070, 1077 (2005) (application of procedural default rules is

mandatory). Nevertheless, the district court conducted an evidentiary hearing, considered the merits of Sabo's petition, and concluded that trial counsel was not ineffective. See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984). We conclude that the district court reached the right result, albeit for the wrong reason. Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) ("If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. Brent T. Adams, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk