

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD JAMES BENNETT,

No. 35574

Appellant,

vs.

WARDEN, NORTHERN NEVADA
CORRECTIONAL CENTER, DAVID
MELIGAN,

Respondent.

FILED

JUL 13 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On June 19, 1998, the district court convicted appellant, pursuant to a guilty plea, of eluding a police officer, assault with the use of a deadly weapon, and trafficking in a controlled substance. The district court sentenced appellant to serve three consecutive terms of 28 to 72 months in the Nevada State Prison. This court dismissed appellant's appeal from his judgment of conviction and sentence.¹ The remittitur issued on December 29, 1998.

On January 4, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On January 11, 2000, the district court denied appellant's petition. This appeal followed.

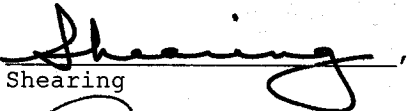
Appellant filed his petition more than one year after this court issued the remittitur from his direct appeal.

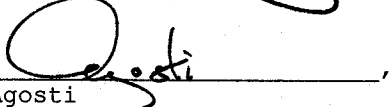
¹Bennett v. State, Docket No. 32676 (Order Dismissing Appeal, December 9, 1998).

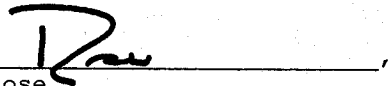
Thus, appellant's petition was untimely filed.² Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.³ Appellant does not attempt to demonstrate cause for the delay. Moreover, appellant failed to demonstrate that he would be unduly prejudiced because his claim lacked merit.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing, J.


Agosti, J.


Rose, J.

cc: Hon. Brent T. Adams, District Judge
Attorney General
Washoe County District Attorney
Richard James Bennett
Washoe County Clerk

²See NRS 34.726(1).

³See id.

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).