

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD RAY MCCUNE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61381

FILED

APR 09 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. [Signature]
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 Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Appellant filed his petition on April 13, 2012, more than twelve years after entry of the judgment of conviction on February 9, 2000. 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 failed to set forth any arguments explaining his twelve-year delay in filing a petition. To the extent that appellant suggested his mental status explained his delay, and even assuming without deciding that a defendant's mental status could provide good cause,² we note that

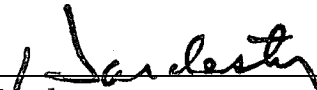
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

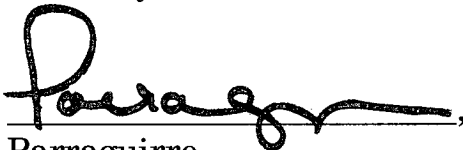
²This court has held that a defendant's lack of knowledge and mental status did not constitute good cause to excuse a procedurally

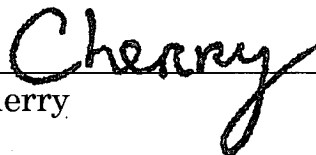
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appellant was determined to be competent during the trial proceedings and appellant failed to demonstrate that a change occurred in his mental status that would explain his delay in filing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Lidia Stiglich, District Judge
Donald Ray McCune
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

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defective petition. Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988).

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.