

IN THE SUPREME COURT OF THE STATE OF NEVADA

BERNABI ISIORDIA BERMUDEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61480

**FILED**

APR 23 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angela  
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.<sup>1</sup> Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

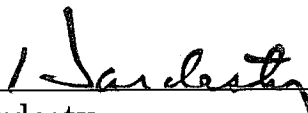
Appellant filed his petition on June 12, 2012, more than one year after entry of the judgment of conviction on June 7, 2011. Thus, appellant's petition was untimely filed. *See* NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. *See id.* Appellant did not attempt to demonstrate cause for the delay in filing his petition. Thus, we conclude

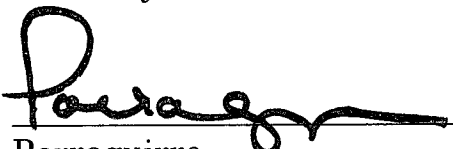
---

<sup>1</sup>This 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).

that the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

CHERRY, J., dissenting:

The district court denied the petition without having the State respond to the petition and without providing appellant an opportunity to provide cause for the delay. While the district court may summarily deny a petition for being successive, *see* NRS 34.745(4), nothing in NRS chapter 34 expressly permits the district court to summarily deny an untimely petition. Rather, NRS 34.745(1) requires the district court judge to order

---

<sup>2</sup>We 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.

the State to file a response or answer to the petition. I would reverse the denial of the petition and remand to provide appellant an opportunity to demonstrate cause for the delay, particularly in light of the very minimal delay in filing—six days.

Cherry, J.  
Cherry

cc: Hon. Jerome Polaha, District Judge  
Bernabi Isiordia Bermudez  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk