

IN THE SUPREME COURT OF THE STATE OF NEVADA

REYNALDO TAPIA-VEGA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61506

FILED

APR 10 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angel*
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 Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant filed his petition on April 4, 2012, more than two years after entry of the judgment of conviction on February 22, 2010. 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 claimed that he had cause for the delay because he did not learn, due to a language barrier, until October 2011 that the plea agreement had been breached. Specifically, appellant claimed that he had agreed to a maximum minimum sentence of 8 years and that this meant the sentences for the two counts would be terms of 8 to 20 years, to run

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).

concurrently with one another. Instead, the district court imposed two consecutive sentences of 4 to 20 years.

Based upon our review of the record on appeal, we conclude that the district court did not err in rejecting this good cause argument. The underlying factual basis of appellant's claim is incorrect as two consecutive terms of 4 to 20 years complied with the agreement that the maximum minimum sentence not exceed 8 years. The plea negotiations did not include a promise of concurrent sentences. The guilty plea agreement specifically informed appellant that the decision to impose consecutive sentences was within the discretion of the district court. Appellant's two consecutive minimum terms of 4 years complies with the plea agreement. Regardless of the alleged language barrier, the factual basis for the good cause argument lacked merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

²We 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.

cc: Hon. Stefany Miley, District Judge
Reynaldo Tapia-Vega
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk