

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY DALE PETERSON,

No. 35671

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUL 09 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *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 May 17, 1996, the district court convicted appellant, after a jury trial, of one count of robbery and one count of attempted murder with the use of a deadly weapon. The district court sentenced appellant to serve terms totaling fifty-five years in the Nevada State Prison. This court dismissed appellant's direct appeal.¹ The remittitur issued on February 19, 1997.

On January 5, 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 18, 2000, the district court denied appellant's petition on the ground that it was procedurally time barred. This appeal followed.

Appellant filed his petition almost three years after this court issued the remittitur from his direct appeal.

¹Peterson v. State, Docket No. 29090 (Order Dismissing Appeal, January 30, 1997).

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 Generally, a lower court's determination regarding the existence of good cause will not be disturbed absent a clear case of abuse of discretion.⁴

In an attempt to demonstrate cause for the delay, appellant argued that his attorney did not notify him of this court's decision on his direct appeal. Appellant argued that he learned about this court's decision only when his family called the public defender's office. Based upon our review of the record on appeal, we conclude that the district court did not abuse its discretion in determining that appellant failed to demonstrate adequate cause to excuse the delay.⁵

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.⁶ Accordingly, we


ORDER the judgment of the district court AFFIRMED.



Young J.



Leavitt J.



Becker J.

²See NRS 34.726(1).

³See *id.*

⁴See *Colley v. State*, 105 Nev. 235, 773 P.2d 1229 (1989).

⁵See *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994) (holding that good cause must be an impediment external to the defense).

⁶See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), *cert. denied*, 423 U.S. 1077 (1976).

cc: Hon. Janet J. Berry, District Judge
Attorney General
Washoe County District Attorney
Anthony Dale Peterson
Washoe County Clerk