

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL D. TELLIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63073

**FILED**

NOV 14 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *T. Malone*  
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> Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant filed his petition on March 12, 2013, more than one year after issuance of the remittitur on direct appeal on December 19, 2011. *Tellis v. State*, Docket No. 58400 (Order of Affirmance, November 21, 2011). 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.*

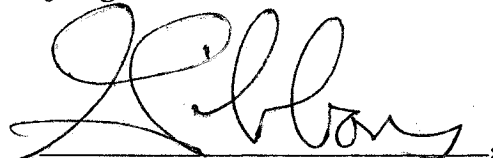
First, appellant claimed that he had good cause because he did not receive a direct appeal. This claim is belied by the record, *Tellis v. State*, Docket No. 58400 (Order of Affirmance, November 21, 2011), and consequently does not provide cause for the delay.

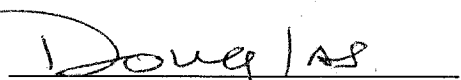
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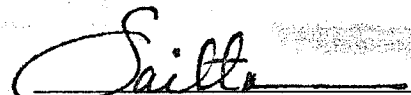
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Second, appellant claimed that he had good cause because counsel advised him that a petition for a writ of habeas corpus could be filed at any time. Even assuming counsel misadvised appellant about post-conviction deadlines, appellant failed to demonstrate that the incorrect information provided cause for the delay. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (recognizing good cause must be an impediment external to the defense). Moreover, appellant failed to demonstrate that he would be unduly prejudiced because he failed to demonstrate that counsel was ineffective or that his plea was invalid. *See* NRS 34.726(1); *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985); *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996); *Bryant v. State*, 102 Nev. 268, 272, 821 P.2d 364, 368 (1986). Therefore, we conclude 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.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

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<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.

cc: Hon. Michelle Leavitt, District Judge  
Michael D. Tellis  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk