

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHANNON A. EVANS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63363

FILED

DEC 13 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

*ORDER OF AFFIRMING IN PART AND
DISMISSING APPEAL IN PART*

This is a proper person appeal from an order denying a post-conviction petition for a writ of habeas corpus, petition for quo warranto, and a motion to dismiss for lack of subject matter jurisdiction. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

In his petition filed on July 20, 2012, appellant claimed that his conviction was invalid due to a jurisdictional defect. Specifically, appellant claimed that the district court lacked jurisdiction to convict him because there was no enacting clause set forth in the Nevada Revised Statutes. Appellant's petition was untimely because it was filed more than fourteen years after entry of the judgment of conviction on December 3, 1997. *See* NRS 34.726(1). Thus, appellant's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Appellant did not provide a cogent argument that he had cause for the delay. To the extent that he argued that the procedural bars did not apply because he was challenging the constitutionality of the laws and the jurisdiction of the courts, appellant's argument was without merit. Appellant's claims challenge the validity of the judgment of conviction, and thus, the procedural bars do apply in this case.¹ See NRS 34.720(1); NRS 34.724(1). Because appellant did not provide cause for the delay, the petition was procedurally barred. Thus, the district court did not err in denying this portion of the petition.

To the extent that appellant sought a petition for a writ of quo warranto, appellant's claims fell outside the scope of claims permissible in quo warranto. See *Lueck v. Teuton*, 125 Nev. 674, 678, 219 P.3d 895, 898 (2009) (recognizing that quo warranto is available to challenge an individual's right to hold office and to oust an individual from the office). Thus, the district court did not err in denying this portion of the petition.

Finally, to the extent that appellant sought to dismiss his conviction or the criminal complaint for lack of subject matter jurisdiction, the denial of a motion to dismiss for lack of subject matter jurisdiction is not an appealable decision because no statute or court rule authorizes it.

¹Appellant's claims did not implicate the jurisdiction of the courts. Nev. Const. art. 6, § 6; NRS 171.010. We note that the Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes simply reproduce those laws as classified, codified, and annotated by the Legislative Counsel. NRS 220.120.

Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Thus, we dismiss this portion of the appeal. Accordingly, we

ORDER the judgment of the district court AFFIRMED in part and we DISMISS this appeal in part.

Pickering, C.J.
Pickering

Hardesty, J.
Hardesty

Cherry, J.
Cherry

cc: Hon. Connie J. Steinheimer, District Judge
Shannon A. Evans
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk