

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL CARL MITCHELL A/K/A
MICHAEL C. MITCHELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63379

FILED

JAN 16 2014

TRAVIS K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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; Abbi Silver, Judge.

Appellant filed his petition on March 7, 2013, more than two years after the filing of his September 9, 2010, judgment of conviction.² Appellant's petition was therefore untimely filed and, accordingly, was procedurally barred absent a demonstration of cause for the delay and undue prejudice. *See* NRS 34.726(1).

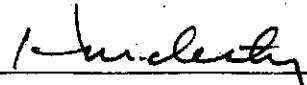
Appellant argued that he had cause for the delay because he was unaware of his right to appeal until it was pointed out by an inmate law clerk. However, appellant was informed of his right to appeal in his guilty plea agreement. Further, appellant's ignorance of the law did not

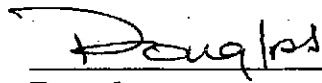
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

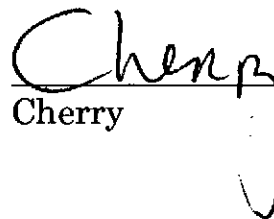
²No direct appeal was taken.

demonstrate cause for the delay. *Cf. Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003) (holding that good cause means “an impediment external to the defense”); *Phelps v. Dir., Nev. Dep’t of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding that organic brain damage and borderline mental retardation do not excuse a procedural bar). We therefore conclude that the district court did not err in denying appellant’s petition as procedurally barred.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Abbi Silver, District Judge
Michael Carl Mitchell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³The filing of a second amended judgment of conviction on December 23, 2011, also failed to demonstrate good cause to overcome the procedural bar because the petition was filed more than one year thereafter, and appellant failed to explain the delay. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004); *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003).