

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD WAYNE BEALL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63662

FILED

JAN 21 2014

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a post-conviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Appellant filed his post-conviction petition on November 28, 2012, more than 20 years after this court issued the remittitur on appeal from the judgment of conviction, and therefore his petition was untimely and procedurally barred absent a demonstration of good cause and prejudice. NRS 34.726(1). Appellant argued that newly discovered evidence of ineffective assistance of counsel excused the procedural

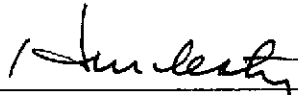
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

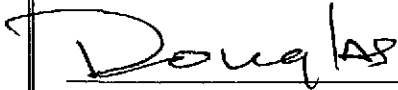
default. In this, he contended that counsel was ineffective for advising him to reject two plea offers by the State because he would not be found guilty at trial, resulting in him receiving a lengthy sentence after proceeding to trial. However, appellant did not identify any new evidence that precluded him from raising this claim earlier. He also appeared to argue that the U.S. Supreme Court's decisions in *Lafler v. Cooper*, 566 U.S. ___, 132 S. Ct. 1376 (2012), *Missouri v. Frye*, 566 U.S. ___, 132 S. Ct. 1399 (2012), and *Martinez v. Ryan*, 566 U.S. ___, 132 S. Ct. 1309 (2012), excused the procedural default. His good-cause argument lacked merit because his case was final when those cases were decided, and he failed to demonstrate that those cases would apply retroactively to him. Even if they announced new rules of constitutional law, he failed to allege facts to support that he met either exception to the general principle that such rules do not apply retroactively to cases which were already final when the new rules were announced. *See Colwell v. State*, 118 Nev. 807, 816-17, 59 P.3d 463, 469-70 (2002). Moreover, this court has considered ineffective-assistance-of-counsel claims based on a defendant's rejection of the State's plea offer long before *Lafler*, *Frye*, and *Martinez* were decided. *See Larson v. State*, 104 Nev. 691, 766 P.2d 261 (1988). Further, *Martinez* is inapplicable here because that case concerns whether post-conviction counsel's ineffective assistance may excuse a procedural default. As this appeal concerns appellant's first post-conviction petition, there was no

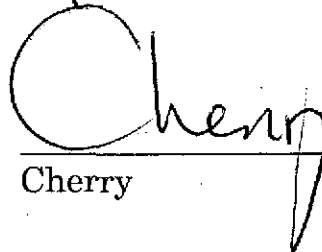
representation by post-conviction counsel to assist as good cause.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Elliott A. Sattler, District Judge
Ronald Wayne Beall
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

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.