

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRANCE LAVELLE HART,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63900

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. 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.¹ Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Appellant filed his petition on April 4, 2013, nearly four years after issuance of the remittitur on direct appeal on May 12, 2009. *Hart v. State*, Docket No. 51059 (Order of Affirmance, April 15, 2009). Thus, appellant's petition was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

Appellant claimed that he had cause for the delay because his counsel failed to send him his case file in a timely manner. Appellant failed to demonstrate cause because counsel's alleged failure to provide appellant with his file would not have prevented appellant from filing a timely petition. *Hood v. State*, 111 Nev. 335, 338, 890 P.2d 797, 798

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).

(1995). Further, appellant waited more than six months after the end of the one-year time period to file a timely petition before petitioning the district court for the production of documents from his former counsel. Therefore, even assuming the lack of a case file could be good cause, he failed to demonstrate cause for the entire length of his delay, and the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

1 Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Jennifer P. Togliatti, District Judge
Terrance Lavelle Hart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk