

IN THE SUPREME COURT OF THE STATE OF NEVADA

CECIL COGMON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 64418

**FILED**

APR 10 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. 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; Jennifer P. Togliatti, Judge.

Appellant filed his petition on March 12, 2013, two and a half years after entry of the judgment of conviction on August 2, 2010. 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.*

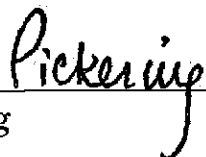
In an attempt to demonstrate good cause, appellant claimed that he told counsel to file an appeal but counsel refused. Appellant failed to demonstrate good cause because he failed to demonstrate that this claim could not have been raised in a timely petition. *Hathaway v. State*, 119 Nev. 248, 71 P.3d 503 (2003). Appellant does not allege that he believed that counsel had filed an appeal and only recently learned that it

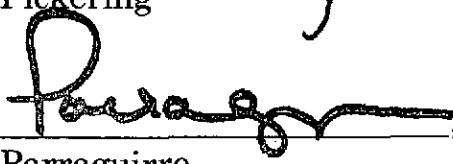
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

had not been filed. In fact he claimed that counsel specifically refused to file the appeal. Further, it is clear from the record that appellant did not believe an appeal was pending because on February 5, 2011, appellant filed a motion for counsel to withdraw and a motion for the production of documents from his former counsel. We note that these motions were filed six months before the expiration of the one-year time limit for filing a timely post-conviction petition for a writ of habeas corpus. Therefore, the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, 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. Jennifer P. Togliatti, District Judge  
Cecil Cogmon  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk