

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY LEE HOLMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64868

FILED

JUN 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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; Kathleen E. Delaney, Judge.

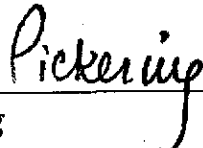
Appellant filed his petition on October 17, 2013, more than six years after issuance of the remittitur on direct appeal on January 16, 2007. *Holman v. State*, Docket No. 47517 (Order of Affirmance, December 21, 2006). Thus, appellant's petition was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1). Moreover, because the State specifically pleaded laches, appellant was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

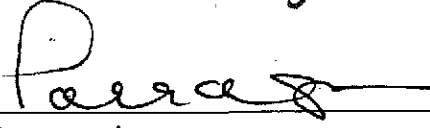
Appellant appeared to claim that he had good cause because his counsel did not explain to him that he needed to file a post-conviction

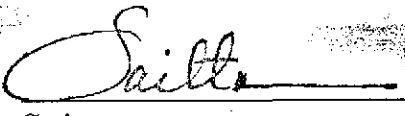
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

petition for a writ of habeas corpus within one year of the issuance of the remittitur from his direct appeal. Appellant did not demonstrate that there was an impediment external to the defense that should excuse the procedural bars, and he failed to demonstrate that he could not have raised his claims at an earlier time. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). In addition, appellant failed to overcome the presumption of prejudice to the State. Therefore, the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Kathleen E. Delaney, District Judge
Jerry Lee Holman
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We also conclude that the district court did not err in declining to appoint post-conviction counsel. *See NRS 34.750.*