

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES LEE CLARK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65607

FILED

SEP 18 2014

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to withdraw guilty plea.<sup>1</sup> Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Because appellant's motion challenged the validity of his judgment of conviction and is not incident to the proceedings in trial court, his motion is properly construed as a post-conviction petition for a writ of habeas corpus. *See Harris v. State*, 130 Nev. \_\_\_, \_\_\_, 329 P.3d 619, 628 (2014). Appellant filed his petition on March 19, 2014, more than one year after entry of the judgment of conviction on March 14, 2013. No direct appeal was taken. Appellant's petition was therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See NRS 34.726(1)*.

Even if appellant could demonstrate cause for the delay, he cannot demonstrate undue prejudice because his underlying claim lacked

---

<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 Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

merit. Appellant acknowledged his understanding in his guilty plea memorandum and during his plea canvass that his sentence was up to the discretion of the district court and that no one had made him any promises not contained in the guilty plea memorandum in exchange for his plea. We therefore conclude that the motion was procedurally barred, and we

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

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

cc: Hon. Patrick Flanagan, District Judge  
Charles Lee Clark  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

---

<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.