

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65973

FILED

SEP 17 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malow*
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; David B. Barker, Judge.

Appellant filed his petition on March 19, 2014, more than one year after issuance of the remittitur on direct appeal on March 12, 2013. *See Smith v. State*, Docket No. 58858 (Order of Affirmance, February 13, 2013). 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).

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).

Appellant did not attempt to demonstrate good cause to excuse his delay. We therefore conclude that the district court did not err in denying his petition as procedurally time barred, and we

ORDER the judgment of the district court AFFIRMED.²

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

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.

The district court did not abuse its discretion in denying appellant's request for the appointment of post-conviction counsel. See NRS 34.750.

cc: Hon. David B. Barker, District Judge
Phillip Smith
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk