

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN LEE MOSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66227

FILED

DEC 11 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK
No. 66229

KEVIN LEE MOSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

KEVIN LEE MOSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66230

ORDER OF AFFIRMANCE

These are proper person appeals from an order of the district court denying identical post-conviction petitions for a writ of habeas corpus.¹ Fifth Judicial District Court, Nye County; Robert W. Lane,

¹These appeals have been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the records are sufficient for our review and briefing is unwarranted. See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Judge. We elect to consolidate these appeals for disposition. *See* NRAP 3(b)(2).

Appellant filed his petitions on April 11, 2014, nearly three years after the entry of the judgments of conviction on August 23, 2011.² Appellant's petitions were therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

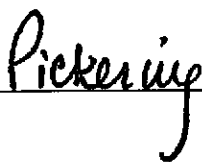
Appellant appeared to suggest that he had good cause to excuse the procedural bar because, due at least in part to trial counsel's ineffective assistance, he was ignorant of the sentence actually imposed until he went before the Parole Board. Appellant failed to demonstrate that an impediment external to the defense prevented him from raising his claim in a timely post-conviction petition for a writ of habeas corpus. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Moreover, his claim of ignorance was belied by the record as appellant was apprised at his sentencing hearing that the sentence in one of his cases was to be served consecutively to the others. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). We therefore conclude that

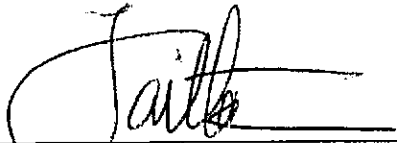
²No direct appeals were taken. We note that while denying appellant's petitions as procedurally barred, the district court nevertheless gave appellant partial relief by filing amended judgments of conviction in two of the three cases, granting 66 days' presentence credit in the case underlying Docket No. 66230, and reducing the minimum term of imprisonment in the case underlying Docket No. 66229. Those amendments are not at issue in the instant appeal and thus do not affect the analysis of the procedural bar. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

the district court did not err in denying appellant's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Saitta

cc: Hon. Robert W. Lane, District Judge
Kevin Lee Moss
Nye County District Attorney
Attorney General/Carson City
Nye County Clerk

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in these matters, 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.