

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH WAYNE MCCLELLAND,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66486

FILED

JAN 15 2015

TRACEY M. MOSEMAN  
CLERK OF THE SUPREME COURT  
BY: *Angerson*  
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an order dismissing a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Tenth Judicial District Court, Churchill County; Robert E. Estes, Senior Judge.

Appellant filed his petition on May 14, 2014, almost four years after issuance of the remittitur on direct appeal on July 6, 2010. *McClelland v. State*, Docket No. 55372 (Order of Affirmance, June 9, 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.*

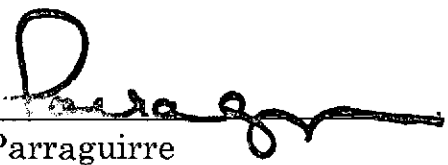
Appellant claimed that he had good cause because his counsel in his first post-conviction proceedings failed to file an appeal from the denial of that petition. We conclude that the district court did not err in concluding that appellant failed to demonstrate good cause. Ineffective assistance of post-conviction counsel would not be good cause in the

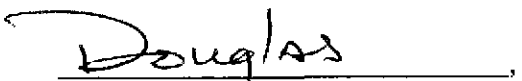
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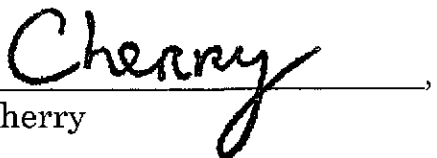
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

instant case because the appointment of counsel in the prior post-conviction proceedings was not statutorily or constitutionally required. *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Therefore, we conclude that the district court did not err in dismissing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
Parraguirre J.

  
Douglas J.

  
Cherry J.

cc: Chief Judge, Tenth Judicial District  
Hon. Robert E. Estes, Senior Judge  
Kenneth Wayne McClelland  
Attorney General/Carson City  
Churchill County District Attorney/Fallon  
Churchill County Clerk