

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID LEE ALEXANDER,

No. 36374

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 13 2001
JANET M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On August 12, 1981, the district court convicted appellant, pursuant to a guilty plea, of one count of robbery. The district court sentenced appellant to serve a term of twelve (12) years in the Nevada State Prison, to run concurrently with a Federal term of imprisonment. Appellant did not file a direct appeal.

On May 3, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court.¹ Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On May 31, 2000, the district court denied appellant's petition. This appeal followed.

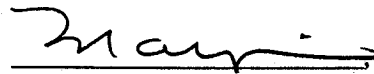
In his petition, appellant acknowledged that he had completed serving his twelve-year sentence in this case prior to filing his petition. Therefore, appellant was not in custody or otherwise restrained of his liberty by the state of Nevada at the time he filed his habeas corpus

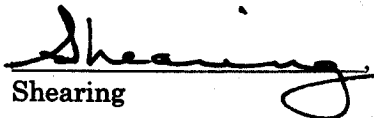
¹Appellant labeled his petition a "petition for writ of error coram nobis." We elect to construe appellant's petition as a post-conviction petition for a writ of habeas corpus because it challenges the validity of his conviction. See NRS 34.724(2)(b) (stating that a post-conviction petition for a writ of habeas corpus "[c]omprehends and takes the place of all other common law, statutory or other remedies which have been available for challenging the validity of the conviction or sentence, and must be used exclusively in place of them").

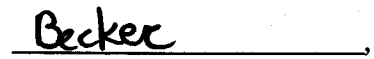
petition.² Furthermore, appellant filed his petition approximately 20 years after entry of the judgment of conviction. Thus, appellant's petition was procedurally barred because it was filed without good cause for the delay.³ We therefore conclude that the district court did not err in denying appellant's petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief, and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER this appeal dismissed.


C.J.
Maupin


J.
Shearing


J.
Becker

cc: Hon. Sally L. Loehrer, District Judge
Attorney General/Carson City
Clark County District Attorney
David Lee Alexander
Clark County Clerk

²See NRS 34.360; see also Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999) (petitioner's "present confinement for another conviction does not alter the jurisdictional requirement of the Nevada Constitution that a petitioner must not have completed service of the sentence for the conviction he seeks to challenge").

³See NRS 34.726(1).

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).