

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD MCKINLEY MAPEL,

No. 37365

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

OCT 30 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF 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 December 12, 1995, the district court convicted appellant, pursuant to a guilty plea, of one count of first degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole. Appellant did not file a direct appeal.

On September 26, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. 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 January 8, 2001, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than four years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.¹ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.²

In an attempt to demonstrate cause for the delay, appellant first asserted that he was deprived of a direct appeal without his consent because he requested his trial counsel file a direct appeal and his trial

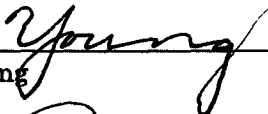
¹See NRS 34.726(1).

²See *id.*

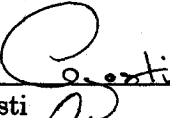
counsel failed to do so. Second, appellant claimed that his petition was untimely because his trial counsel did not withdraw from the case until the year 2000. Lastly, appellant claimed that his state of mind was "unrecouped". This court has held that "an allegation that trial counsel was ineffective in failing to inform a claimant of the right to appeal from the judgment of conviction, or any other allegation that a claimant was deprived of a direct appeal without his or her consent, does not constitute good cause to excuse the untimely filing of a petition pursuant to NRS 34.726."³ We conclude that the district court did not err in denying appellant's petition. Appellant failed to demonstrate good cause, an impediment external to the defense, to excuse the delay in filing his petition.⁴

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.⁵ Accordingly, we


ORDER the judgment of the district court AFFIRMED.



Young J.



Agosti J.



Leavitt J.

cc: Hon. Sally L. Loehrer, District Judge
Attorney General
Clark County District Attorney
Ronald McKinley Mapel
Clark County Clerk

³Harris v. Warden, 114 Nev. 956, 959, 964 P.2d 785, 787 (1998).

⁴See id.; Crump v. Warden, 113 Nev. 293, 934 P.2d 247 (1997); Mazzan v. Warden, 112 Nev. 838, 921 P.2d 920 (1996); Passanisi v. Director, Dep't Prisons, 105 Nev. 63, 769 P.2d 72 (1989); Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988); see also Murray v. Carrier, 477 U.S. 478 (1986).

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).