

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY COLLINS,

No. 37705

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

SEP 28 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
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 January 3, 1990, the district court convicted appellant, pursuant to a guilty plea, of one count of conspiracy to sell a controlled substance. The district court sentenced appellant to serve a term of three and one-half years in the Nevada State Prison. Appellant did not file a direct appeal.

On January 5, 2001, appellant filed a proper person post-conviction motion which he labeled "motion to challenge validity of prior convictions and/or coram nobis" in the district court challenging his conviction. The State opposed the motion. Because appellant challenged his conviction, the district court construed appellant's motion to be a post-conviction petition for a writ of habeas corpus. 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 March 21, 2001, the district court denied appellant's petition. This appeal followed.

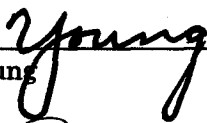
We conclude that the district court properly construed appellant's motion as a post-conviction petition for a writ of habeas corpus because it challenged his conviction.¹ Appellant acknowledged that he had completed serving his three and one-half years sentence in this case prior to filing his petition. Therefore, appellant was not in custody or otherwise

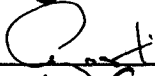
¹See NRS 34.724(2)(b).


restrained of his liberty at the time he filed his petition.² Furthermore, appellant filed his petition approximately 11 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 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 the judgment of the district court AFFIRMED.⁵


_____. J.
Young


_____. J.
Agosti


_____. J.
Leavitt

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General
Clark County District Attorney
Anthony Collins
Clark County Clerk

²See NRS 34.360; see also Jackson v. State, 115 Nev. 21, 973 P.2d 241 (1999).

³See NRS 34.726(1).

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

⁵We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.