

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK ORTIZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37986

FILED

MAR 25 2002

JANETIE 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 April 10, 1997, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault. The district court sentenced appellant to serve a term of life in the Nevada State Prison with parole eligibility beginning after a minimum of ten years. The district court also imposed a special sentence of life time supervision commencing upon release from any term of probation, parole or imprisonment. This court dismissed appellant's untimely appeal from his judgment of conviction and sentence for lack of jurisdiction.¹

On February 20, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The

¹Ortiz v. State, Docket Nos. 32612, 32613 (Order Dismissing Appeals, August 10, 1998).

State opposed the petition. Appellant filed a reply. 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, 2001, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than three years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.² Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.³

In an attempt to demonstrate cause for the delay, appellant argued that it is very hard to keep filing dates straight, he has been in and out of mental health units, he has been in different wings of infirmaries, his medications and their doses have been constantly changed, he was transferred to the state prison in Ely in the fall of 1999, he has had his legal papers regularly taken from him, and he gave up his right to appeal. Based upon our review of the record on appeal, we conclude that appellant failed to demonstrate good cause to excuse the untimely filing of his petition. Appellant does not provide the location and names of these mental health units and infirmaries, nor does he provide the dates or state how long he was in these mental health units and infirmaries. Therefore,

²See NRS 34.726(1); see also Dickerson v. State, 114 Nev. 1084 , 967 P.2d 1132 (1998).

³See NRS 34.726(1).

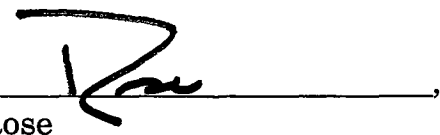
we conclude that the district court did not err in denying appellant's petition.⁴

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

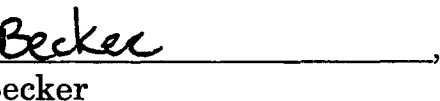
ORDER the judgment of the district court AFFIRMED.⁶



Shearing J.



Rose J.



Becker J.

cc: Hon. Valorie Vega, District Judge
Attorney General/Carson City
Clark County District Attorney
Frank Ortiz
Clark County Clerk

⁴See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994); see also Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988).

⁵See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.