

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM ELDRIDGE CALDWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38068

FILED

MAY 15 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Appellant was originally convicted, pursuant to a plea of nolo contendere,¹ of one count of attempted sexual assault of a minor under sixteen years of age. The district court sentenced appellant to a prison term of 17 years, to run consecutive to a federal sentence appellant was serving for bank robbery. The judgment of conviction was entered on March 12, 1999.

Appellant did not file a timely notice of appeal from his judgment of conviction. On September 12, 2000, court-appointed counsel filed a petition for a writ of habeas corpus. The petition was untimely.² Appellant did not allege good cause to excuse the untimely filing of the petition.


¹Appellant pleaded guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).


²NRS 34.726(1); see also Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998) (the time period for filing a post-conviction petition begins to run from entry of the judgment of conviction, or from the issuance of the remittitur from a timely notice of appeal).

The district court conducted a hearing on the petition, and denied it on its merits. However, because appellant failed to establish good cause for the untimely petition, it is procedurally barred, and we explicitly conclude that the petition should have been denied on that basis.³ Nonetheless, the district court reached the correct result, and we

ORDER the judgment of the district court AFFIRMED.⁴

 _____, J.
Shearing

 _____, J.
Rose

 _____, J.
Becker

cc: Hon. Kathy A. Hardcastle, District Judge
Gary E. Gowen
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk

³See generally Harris v. Reed, 489 U.S. 255, 263 (1989) (holding that procedural default does not bar federal review of claim on the merits unless state court rendering judgment relied “clearly and expressly” on procedural bar) (citation omitted).

⁴See generally Hotel Riviera, Inc. v. Torres, 97 Nev. 399, 403, 632 P.2d 1155, 1158 (1981) (where lower court's decision was otherwise correct, error will not be found despite the fact that court gave wrong reasons in support of its decision).