

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT FERRIS A/K/A ALFRED
PEREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39423

FILED

DEC 04 2002

ORDER OF AFFIRMANCE

STATE OF NEVADA
CLERK OF APPELLATE COURT
BY *J. R. [Signature]*
DEPUTY CLERK

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 22, 2000, the district court convicted appellant, pursuant to a guilty plea, of burglary while in possession of a firearm, conspiracy to commit robbery, and robbery with the use of a deadly weapon. The district court sentenced appellant to serve three consecutive terms totaling a minimum of one hundred and forty-four months and a maximum of three hundred and sixty months. No direct appeal was taken.

On December 31, 2001, 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 March 19, 2002, the district court denied appellant's petition. This appeal followed.

NRS 34.726(1) provides that if no direct appeal is taken, a post-conviction petition for a writ of habeas corpus must be filed within one year after entry of the judgment of conviction. Appellant's petition was filed more than one year after entry of the judgment of conviction.


Thus, appellant's petition was untimely and therefore procedurally barred absent a demonstration of good cause.¹ Good cause for delay exists if the petitioner demonstrates the delay is not the fault of the petitioner, and that dismissal of the petition as untimely will unduly prejudice the petitioner.²

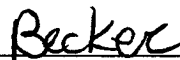
In an attempt to demonstrate good cause, appellant argued that his counsel's "collusion" with the State to withhold material evidence, and his counsel's failure to surrender case files to appellant, were an "external impediment." We conclude that the district court did not err in applying NRS 34.726(1) to bar appellant's petition because appellant failed to demonstrate good cause to excuse his delay.³

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.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

¹See NRS 34.726(1).

²Id.

³See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

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

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General/Carson City
Clark County District Attorney
Albert Ferris
Clark County Clerk