

IN THE SUPREME COURT OF THE STATE OF NEVADA

HILARY MICHAEL MILKO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40066

FILED

JAN 31 2000

ORDER OF AFFIRMANCE

WILLIAM W. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Ruben*  
CHIEF CLERK

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On September 15, 1999, the district court convicted appellant, pursuant to a jury trial, of one count of burglary and one count of violation of custody rights. The district court sentenced appellant for burglary to a prison term of 16 to 72 months, and for violation of custody rights to a concurrent prison term of 12 to 34 months. On direct appeal, this court affirmed the judgment of conviction and sentence.<sup>1</sup> The remittitur issued on June 20, 2000.

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<sup>1</sup>Milko v. State, Docket No. 34900 (Order Dismissing Appeal, May 29, 2000).

On November 14, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On February 28, 2002, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition approximately seventeen months after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.<sup>2</sup> Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.<sup>3</sup>

In an attempt to demonstrate cause for the delay, appellant argued that he was in solitary confinement, and he therefore had no access to the law library. We note, however, that during the time between issuance of the remittitur and the filing of the instant petition, appellant managed to file in this court a petition for a writ of certiorari, a "Qui Tam Suit under the False Claims Act," and a "Writ of Impeachment, Writ of

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<sup>2</sup>See NRS 34.726(1).

<sup>3</sup>See id.

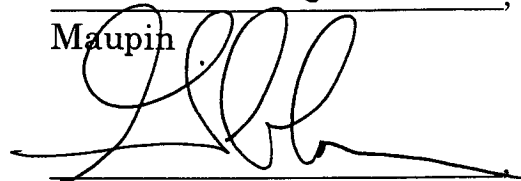
Willful Misconduct, Writ of Conspiracy." We therefore conclude that the district court did not err in denying appellant's petition.<sup>4</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Jackie Glass, District Judge  
Clark County Public Defender  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>4</sup>See Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994) (good cause is established by demonstrating some impediment external to the defense); Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (organic brain damage and reliance on inmate law clerk for assistance is not good cause to excuse procedural default).