

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN IGNACIO ARGUELLES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40832

FILED

JAN 09 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Juan Ignacio Arguelles' post-conviction petition for a writ of habeas corpus.

On July 31, 2001, the district court convicted Arguelles, pursuant to an Alford plea,¹ of possession of a stolen vehicle. The district court sentenced Arguelles to serve a term of 48 to 120 months in the Nevada State Prison. His subsequent untimely appeal was dismissed for lack of jurisdiction.²

On September 25, 2002, Arguelles 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 Arguelles or to

¹North Carolina v. Alford, 400 U.S. 25 (1970).

²Arguelles v. State, Docket No. 38779 (Order Dismissing Appeal, December 5, 2001).

conduct an evidentiary hearing. On December 31, 2002, the district court denied Arguelles' petition. This appeal followed.

Arguelles filed his petition more than one year after entry of the judgment of conviction.³ Thus, his petition was untimely filed.⁴ Arguelles' petition was procedurally barred absent a demonstration of good cause and prejudice.⁵

Based upon our review of the record on appeal, we conclude that the district court did not err in denying Arguelles' petition. Arguelles did not attempt to explain his delay in filing the current petition.⁶ Rather, he alleged that his guilty plea was not knowingly entered without addressing the fact that his petition was untimely filed. Thus, Arguelles did not demonstrate adequate cause to excuse his delay and we affirm the order of the district court.

³Because Arguelles did not file a timely appeal, the statutory time period is measured from entry of the judgment of conviction. See Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

⁴See NRS 34.726(1) (providing that "[u]nless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction").


⁵See id.

⁶See Harris v. Warden, 114 Nev. 956, 959, 964 P.2d 785, 787 (1998) (stating that "the good cause necessary to overcome a procedural bar must be some impediment external to the defense"); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994).

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Becker

 _____, J.
Agosti

 _____, J.
Gibbons

cc: Hon. Sally L. Loehrer, District Judge
Juan Ignacio Arguelles
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).