

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD ANTHONY RAZON,
Appellant,
vs.
WARDEN, NEVADA STATE PRISON,
MICHAEL BUDGE,
Respondent.

No. 40951

FILED

DEC 19 2003

ORDER OF AFFIRMANCE

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

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

On July 28, 2000, the district court convicted Razon, pursuant to a guilty plea, of attempted sexual assault. The district court sentenced Razon to serve 24 to 60 months in the Nevada State Prison. The district court ordered the prison sentence suspended and placed Razon on probation. No direct appeal was taken. Thereafter, on May 4, 2001, the district court revoked Razon's probation and ordered him to serve his original sentence.

On November 20, 2001, Razon filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss Razon's petition. Razon filed an answer. The State filed a reply and Razon filed an answer to the State's reply.

Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Razon or to conduct an evidentiary hearing. On January 16, 2003, the district court denied Razon's petition. This appeal followed.

Razon's petition was filed more than one year after the district court entered its judgment of conviction. Thus, Razon's petition was untimely.¹ Razon's petition was procedurally barred absent a demonstration of good cause for the delay and undue prejudice.²

In an attempt to excuse his procedural defects, Razon claimed that he did not know of his post-conviction remedies, his attorney did not inform him of his post-conviction remedies, he received ineffective assistance of counsel, and he had recently acquired new documentary evidence relating to his case.

Based on our review of the record on appeal, we conclude that the district court did not abuse its discretion in determining that Razon failed to show good cause for the delay.³ Razon's lack of knowledge about

¹See NRS 34.726(1) (providing that a petition for a writ of habeas corpus must be filed within one year after entry of the judgment of conviction).

²See *id.*

³*Colley v. State*, 105 Nev. 235, 773 P.2d 1229 (1989) (holding, in general, that a lower court's determination regarding the existence of good cause will not be disturbed absent a clear abuse of discretion).

post-conviction remedies did not constitute good cause to excuse his failure to comply with the procedural rules.⁴ Razon's trial counsel was not required to inform him of post-conviction remedies.⁵ Razon failed to explain why his claim of ineffective counsel was untimely.⁶ Razon also failed to describe his new evidence and explain why it was not previously available.⁷ Therefore, we conclude that Razon failed to demonstrate adequate cause to excuse his delay and the district court properly denied his petition.

⁴See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988) (stating that appellant's limited intelligence or poor assistance in framing issues will not overcome the procedural bar).


⁵See Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999) (holding "that there is no constitutional requirement that counsel must always inform a defendant who pleads guilty of the right to pursue a direct appeal").


⁶See Hathaway v. State, 119 Nev. ___, ___, 71 P.3d 503, 506 (2003) (stating that "a petitioner must demonstrate cause for raising the ineffective assistance of counsel claim in an untimely fashion").

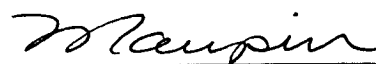
⁷See id. (stating that good cause might be demonstrated by "showing that a factual or legal basis for a claim was not reasonably available" during the statutory period for filing the petition) (quoting Murray v. Carrier, 477 U.S. 478, 488 (1986)).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Razon is not entitled to relief and that briefing and oral argument are unwarranted.⁸ Accordingly we

ORDER the judgment of the district court AFFIRMED.⁹


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Maupin

cc: Hon. James W. Hardesty, District Judge
Ronald Anthony Razon
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁹We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.