

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN L. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42722

FILED

JUL 8 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY: *[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. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On September 11, 2001, the district court convicted Williams, pursuant to a guilty plea, of second-degree murder. Williams was sentenced to a term of life with the possibility of parole after a minimum of ten years. No direct appeal was taken.

On July 15, 2003, Williams filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On October 24, 2003, the district court denied the petition. This appeal followed.

Williams filed his petition nearly two years after entry of the judgment of conviction. Thus, his petition was untimely filed.¹ Williams' petition was procedurally barred absent a demonstration of cause for the delay and prejudice.²

In an attempt to demonstrate cause for the delay, Williams contended that he believed his counsel had filed a notice of appeal pursuant to his request. He claimed he discovered in June 2002 that a notice of appeal had not been filed on his behalf, and on August 1, 2002, he filed a motion to discharge his attorney and return his file. Williams stated that he did not receive his file until January 2003 and subsequently prepared his petition.

Williams waited more than a year after he discovered an appeal had not been perfected to file his habeas corpus petition. William's delay was not reasonable.³ Counsel's failure to send Williams his case file did not prevent him from filing a timely petition, and did not constitute good cause to excuse his procedural default.⁴ Consequently, we conclude Williams is not entitled to relief and the district court did not err in denying his petition as procedurally time barred.

¹See NRS 34.726(1).

²See id.

³See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).


⁴See Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Williams is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Donald M. Mosley, District Judge
John L. Williams
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).