

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN WESLEY CASTLEBERRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52354

FILED

JUN 18 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

On April 13, 2007, the district court convicted appellant, pursuant to a guilty plea, of failure to register as a sex offender. The district court sentenced appellant to serve a term of 12 to 36 months in the Nevada State Prison, but suspended the sentence, and placed appellant on probation for an indeterminate term not to exceed 36 months. No direct appeal was taken. On February 6, 2008, the district entered an order revoking appellant's probation and ordered appellant to serve the original term of 12 to 36 months in the Nevada State Prison with 75 days of credit for time served.

On June 10, 2008, 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 August 7, 2008, the district court denied the petition. This appeal followed.

In his petition, appellant claimed: (1) that the guilty plea agreement in his 1984 California conviction for child molestation was breached, (2) that the guilty plea agreement in the instant conviction was breached, (3) that he is suffering from ex post facto punishment because the sex offender registration law was put in place after the California conviction, and (4) that his trial counsel was ineffective for promising that he would receive a shorter sentence.

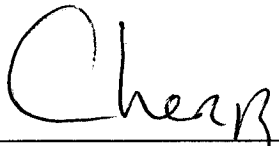
The district court denied the petition on the merits. However, appellant's petition was untimely filed. Appellant filed his petition over one year after entry of the original judgment of conviction on April 13, 2007. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice. See id.

Claims that challenge the initial judgment of conviction and that could have been raised in a timely petition are procedurally barred. Appellant's claims did not challenge the probation revocation proceedings, only the proceedings involving the initial conviction. Thus, the order revoking probation did not provide good cause in this case. See Sullivan v. State, 120 Nev. 537, 540, 96 P.3d 761, 764 (2004). Appellant did not otherwise attempt to demonstrate good cause for the delay. Thus, appellant's petition was procedurally barred without a demonstration of good cause. The district court reached the correct result in denying appellant's petition, and therefore, we affirm the decision of the district court to deny post-conviction relief. See generally Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

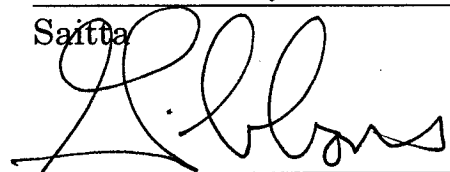
Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Robert H. Perry, District Judge
Stephen Wesley Castleberry
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

¹We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.