

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND LEE MCDONALD,  
Appellant,  
vs.  
WARDEN, NEVADA STATE PRISON,  
GREGORY SMITH AND THE STATE  
OF NEVADA,  
Respondents.

No. 55590

**FILED**

SEP 29 2010

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 dismissing a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant filed his petition on December 3, 2009, more than 14 years after entry of the judgment of conviction on September 12, 1995. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's claims challenging the judgment of conviction were procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1).

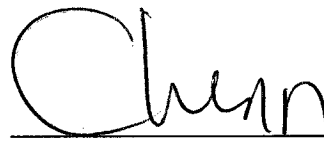
To excuse the delay, appellant claimed that the instant petition was the first opportunity to raise his claim that his trial counsel did not inform him about the psych panel. Appellant failed to

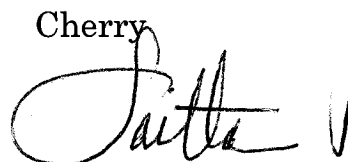
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

demonstrate that an impediment external to the defense excused his late filing as his claim was reasonably available to be raised in a timely petition. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, the district court did not err in dismissing this claim as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

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

cc: Hon. Robert H. Perry, District Judge  
Raymond Lee McDonald  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>2</sup>To the extent appellant challenged the denial of parole, claims of this nature must be brought in a petition filed in the county in which he is incarcerated. Nev. Const. art. 6, § 6(1); NRS 34.738(1).