

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LEE CASTLE,
Appellant,
vs.
JACK PALMER; AND THE STATE OF
NEVADA,
Respondents.

No. 59216

FILED

FEB 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
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.¹ Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant filed his petition on August 26, 2011, more than four years after entry of the judgment of conviction on April 5, 2007. Thus, appellant's petition was untimely filed.² See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause and undue prejudice. See NRS 34.726(1).

In an attempt to overcome the procedural bars, appellant claimed that he was actually innocent. Appellant did not demonstrate actual innocence because he failed to show that "it is more likely than not

¹This 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²Appellant filed a post-conviction petition for a writ of habeas corpus on October 17, 2008, but, with the help of counsel, withdrew the petition in the district court on May 15, 2009.

that no reasonable juror would have convicted him in light of . . . new evidence.” Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Schlup v. Delo, 513 U.S. 298, 327 (1995)); see also Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); Mazzan v. Warden, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). Appellant failed to support his claims with specific facts, that if true, would entitle him to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). We therefore conclude that the district court did not err in denying appellant's petition, and we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. David Hardy, Chief District Judge
Michael Lee Castle
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk