

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG MICHAEL TITUS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59343

FILED

SEP 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

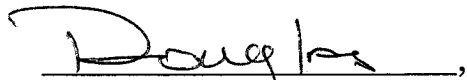
This is an appeal from a district court order denying appellant Craig Michael Titus' post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.


Titus contends that the district court erred by not finding that counsel was ineffective for affirmatively misadvising him about the negotiated plea agreement. Specifically, Titus claims that counsel informed him that he would receive a minimum aggregate prison term of 17 years when, in fact, he was sentenced to serve a minimum of 21 years.

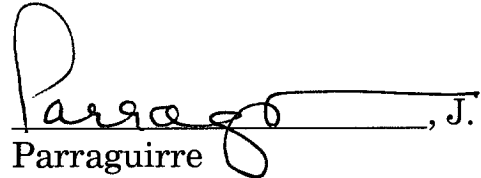
Titus' petition was untimely filed almost two and a half years after the entry of his judgment of conviction. See NRS 34.726(1). A defendant can challenge the validity of his plea in a timely post-conviction petition for a writ of habeas corpus, see NRS 34.810(1)(a), and Titus' claim that the delay in filing the habeas petition was not his fault because he had to wait for resolution of his post-conviction motion to withdraw his plea does not constitute good cause to excuse the petition's untimeliness. Therefore, the district court should have denied his petition on this basis alone. See State v. Dist. Ct. (Riker), 121 Nev. 225, 235, 112 P.3d 1070, 1077 (2005) (application of procedural default rules is mandatory). Nevertheless, the district court conducted a hearing, considered the merits

of Titus' petition, and concluded that trial counsel was not ineffective. See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984); Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). We conclude that the district court reached the right result, albeit for the wrong reason. Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) ("If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Eighth Judicial District Court Dept. 5
Michael H. Schwarz
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk