

IN THE SUPREME COURT OF THE STATE OF NEVADA

WAYNE ALLISON COPELAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59536

FILED

APR 11 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant filed his petition on May 19, 2011, more than seven years after entry of the judgment of conviction on March 17, 2004. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See id. Moreover, because the State specifically pleaded laches, appellant was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

Appellant claimed that he had good cause because it took over a year to process his request to dismiss counsel and receive his records. Based upon our review of the record on appeal, we conclude that appellant failed to demonstrate that he had cause for the entire length of his delay

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

in the instant case. Appellant waited approximately five years after entry of the judgment of conviction to request that his counsel withdraw and transfer the case files. Appellant provided no explanation for this delay. Further, we note that the documents that appellant relied upon in this petition were presented with his petition filed October 9, 2009.² Thus, these documents were not new for purposes of demonstrating good cause for the delay in filing the 2011 petition. Finally, appellant failed to overcome the presumption of prejudice to the State. Therefore, we conclude that the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

²The petition was denied in 2010, but appellant did not file an appeal from the order denying his petition.

³We 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.

cc: Hon. David B. Barker, District Judge
Wayne Allison Copeland
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk