

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRON HAMM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62688

FILED

SEP 19 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
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; Jennifer P. Togliatti, Judge.

Appellant filed his petition on October 31, 2012, more than two years after entry of the judgment of conviction on May 20, 2010. 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.*

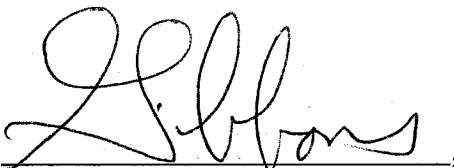
Appellant claimed that he had cause for the delay because his trial counsel failed to file a direct appeal despite being asked to do so. Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition as procedurally barred.²

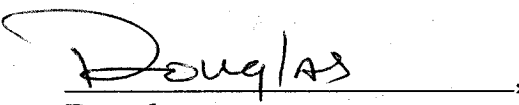
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

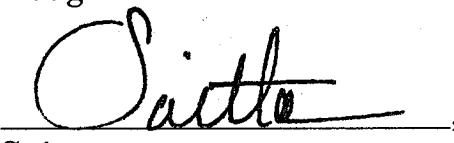
²We conclude that the district court did not abuse its discretion in denying the motion for the appointment of counsel. *See* NRS 34.750(1).

Appellant did not demonstrate cause for the delay because he failed to demonstrate that he reasonably believed an appeal was pending and that he filed his petition within a reasonable time of learning no appeal had been taken.³ *Hathaway v. State*, 119 Nev. 248, 255, 71 P.3d 503, 508 (2003). Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Jennifer P. Togliatti, District Judge
Barron Hamm
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³We note that appellant first litigated a motion to withdraw the guilty plea during the two-year period of his delay.

⁴We 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.