

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEMARKO L. HALL,
Appellant,
vs.
GABRIELA NAJERA, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 87326-COA

FILED

APR 22 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Demarko L. Hall appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on May 10, 2023. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Hall filed his petition more than one year after entry of the judgment of conviction on December 17, 2021.¹ Thus, Hall's petition was untimely filed. *See* NRS 34.726(1). Hall's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* “In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). A petitioner's good-cause claims must be supported by specific factual allegations that are not belied by the record and, if true, would entitle the petitioner to have their claims decided

¹Hall did not appeal from the judgment of conviction.

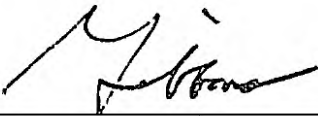
on the merits. *Berry v. State*, 131 Nev. 957, 967, 363 P.3d 1148, 1154-55 (2015).

Hall claimed he had good cause to overcome the procedural time bar because he obtained new evidence that approximately two months prior to his sentencing hearing, his trial-level counsel had been arrested for stealing money from another client. In his petition, Hall alleged counsel was ineffective for (1) failing to review a presentence investigation report with him; (2) failing to present medical records to the sentencing court to explain his absence from the initial sentencing hearing; and (3) failing to object to the State's representation at sentencing that Hall had been arrested on new drug charges. Hall's good-cause claim does not identify any impediment external to the defense that prevented him from raising these claims in a timely petition. Therefore, Hall failed to allege specific facts that, if true, would entitle him to have his claims decided on the merits, and we conclude the district court did not err by denying the petition.

On appeal, Hall contends the district court erred by failing to provide findings of fact and conclusions of law in support of its order denying his petition. We agree. *See* NRS 34.830(1) ("Any order that finally disposes of a petition, whether or not an evidentiary hearing was held, must contain specific findings of fact and conclusions of law supporting the decision of the court."). However, because Hall failed to allege specific facts that, if true, would entitle him to have his claims decided on the merits, the district court's failure to issue findings of fact and conclusions of law did not hinder our ability to review the denial of his petition, *see Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason), and the error did not affect Hall's substantial rights, *see* NRS 178.598 ("Any error, defect,

irregularity or variance which does not affect substantial rights shall be disregarded.”). Therefore, we conclude Hall is not entitled to relief on this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Carli Lynn Kierny, District Judge
Demarko L. Hall
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk