

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARVIN DWAYNE MOSBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68417

FILED

APR 20 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

MARVIN DWAYNE MOSBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68418 ✓

ORDER OF AFFIRMANCE

These are appeals from orders of the district court denying postconviction petitions for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Douglas Smith, Judge. We elect to consolidate these cases for disposition pursuant to NRAP 3(b)(2).

Appellant Marvin Mosby filed his petition in district court case number C-11-271646¹ on April 3, 2014, more than one year after issuance of the remittitur on direct appeal on December 12, 2012.² He filed his petition in district court case number C-11-272379³ on November

¹Docket No. 68417.

²*Mosby v. State*, Docket No. 59839 (Order Affirming in Part, Reversing in Part, and Remanding).

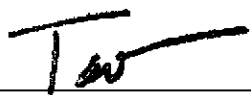
³Docket No. 68418.

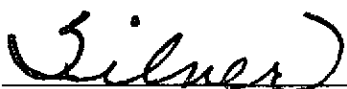
26, 2014, nearly two years after issuance of the remittitur on direct appeal on December 12, 2012.⁴ Thus, Mosby's petitions were untimely filed. *See* NRS 34.726(1). Mosby's petitions were procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

As good cause for both petitions, Mosby claims he mistakenly filed his petitions in federal court instead of state court, he has never filed motions on his behalf in a criminal case, he is not trained in the law, and he experienced medical problems at the time the petitions were being prepared. Mosby failed to demonstrate an impediment external to the defense prevented him from filing timely petitions. *See Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding petitioner's claim of organic brain damage, borderline mental retardation, and reliance on assistance of inmate law clerk unschooled in the law did not constitute good cause for the filing of a successive postconviction petition). Therefore, the district court did not err in denying the petitions as procedurally barred, and we

ORDER the judgments of the district court AFFIRMED.


Gibbons, C.J.


Tao, J.


Silver, J.

⁴*Mosby v. State*, Docket No. 59836 (Order of Affirmance, November 15, 2012).

cc: Hon. Douglas Smith, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk