

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARREN LAMONT MCCOY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72513

FILED

MAR 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Darren Lamont McCoy appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

McCoy filed his petition on August 31, 2015, more than one year after issuance of the remittitur on direct appeal on August 20, 2014. *McCoy v. State*, Docket No. 63317 (Order of Affirmance, July 22, 2014). Thus, McCoy's petition was untimely filed. *See* NRS 34.726(1). McCoy's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*


McCoy claimed he had cause for the delay because he lacked access to his legal paperwork for a time and due to an inadequate law library. However, these issues did not constitute an impediment external to the defense that prevented McCoy from complying with the procedural bar. *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,


¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).


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).

To the extent McCoy asserts on appeal that he suffered from ineffective assistance of postconviction counsel, this issue was not raised before the district court and we decline to consider this issue in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Carolyn Ellsworth, District Judge
Darren Lamont McCoy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk