

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES IRVIN WADE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72959

FILED

FEB 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

James Irvin Wade appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on August 30, 2016.¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Wade filed his petition more than 11 years after entry of the judgment of conviction on July 14, 2005.² Thus, Wade's petition was untimely filed. *See* NRS 34.726(1). Wade's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Wade claimed he had good cause for now raising his presentence credit claim because he just realized he was not given credit for the time he spent in the Mendocino County Jail on a warrant issued in this case. The district court concluded Wade failed to demonstrate good cause because this claim was available to be raised within the statutory time


¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3); (g).

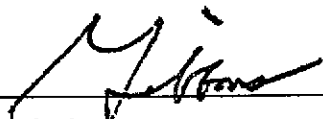
²No direct appeal was taken.

period or within a year of discovering the facts underlying the claim. Specifically, the Mendocino County Jail release record could have been discovered and presented at the time sentencing. Further, the Mendocino County Jail release record was dated July 31, 2008, and Wade failed to demonstrate why he could not have presented this claim at that time. Substantial evidence supports the decision of the district court, see *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003), and we conclude the district court did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Michael Villani, District Judge
James Irvin Wade
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk