

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDMUNDO ANTONIO ZUNIGA,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 71951

FILED

NOV 14 2017

ENZABETHA BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Edmundo Antonio Zuniga appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on October 31, 2013.¹ Second Judicial District Court, Washoe County; Lidia Stiglich, Judge.

Zuniga filed his petition nearly seven years after entry of the judgment of conviction on December 15, 2006.² Thus, Zuniga's petition was untimely filed. *See* NRS 34.726(1). Zuniga's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Zuniga claimed he had good cause because trial counsel failed to inform him of his right to appeal. Zuniga failed to demonstrate good cause to overcome the procedural bars because this claim could have been raised in a previous petition. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). In fact, Zuniga did previously raise this claim in a

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

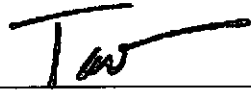
²Zuniga did not file a direct appeal.

prior untimely petition.³ Therefore, the district court did not err by denying this good-cause claim.

To the extent Zuniga argues on appeal he had good cause to overcome the procedural bars because he only recently learned English, this claim was not raised in his petition below. Because this claim was not raised below, we decline to consider it for the first time on appeal. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we conclude the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


Silver, C.J.


Tao, J.


Gibbons, J.

cc: Chief Judge, Second Judicial District Court
Second Judicial District Court, Dept. 8
Edmundo Antonio Zuniga
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³Zuniga did not challenge the denial of this good cause claim on appeal from the denial of that petition. See *Zuniga v. State*, Docket No. 59193 (Order of Affirmance, November 15, 2012).