

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GAYLEN G. THOMPSON,  
Appellant,  
vs.  
TIMOTHY FILSON, WARDEN,  
Respondent.

No. 73633-COA

**FILED**

JAN 17 2019

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

*ORDER OF AFFIRMANCE*

Gaylen G. Thompson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 17, 2017.<sup>1</sup> Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.

Thompson filed his petition nearly 25 years after entry of the judgment of conviction on July 1, 1992. Thompson did not pursue a timely direct appeal. *See Thompson v. State*, Docket No. 23519 (Order Dismissing Appeal, September 3, 1992). Thompson's petition was therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See NRS 34.726(1)*<sup>2</sup>; *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

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<sup>1</sup>This 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).

<sup>2</sup>The deadline for filing a habeas corpus petition pursuant to NRS 34.726 commenced on January 1, 1993, the date of the amendments to NRS chapter 34. *See* 1991 Nev. Stat., ch. 44, §§ 5, 33, at 75-76, 92; *Pellegrini v. State*, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001), *abrogated on other grounds by Rippo v. State*, 134 Nev. \_\_\_, \_\_\_ n.12, 423 P.3d 1084, 1097 n.12

Thompson made no cogent argument in support of his having cause for the delay. To the extent he claimed prison officials delayed the filing of the instant petition by two weeks, this would not excuse the entire delay. See *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). (“[A]n adequate allegation of good cause would sufficiently explain why a petition was filed beyond the statutory time period.”) Further, he cannot demonstrate undue prejudice. Thompson’s underlying claims were devoid of specific facts that, if true, would have entitled him to relief. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding such allegations are insufficient to warrant relief). Further, grounds two through eight are outside the scope of claims available to raise in a postconviction petition for a writ of habeas corpus arising out of a guilty plea. See NRS 34.810(1)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, A.C.J.  
Douglas

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

(2018) . Thompson’s petition was filed 24 years after the effective date of NRS 34.726.

<sup>3</sup>We have reviewed all documents Thompson has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Thompson has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance. See *Rimer v. State*, 131 Nev. 307, 328 n.3, 351 P.3d 697, 713 n.3 (2015).

cc: Hon. Alvin R. Kacin, District Judge  
Gaylen G. Thompson  
Attorney General/Carson City  
Elko County District Attorney  
Elko County Clerk