

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

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

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-11-271646<sup>1</sup> on April 3, 2014, more than one year after issuance of the remittitur on direct appeal on December 12, 2012.<sup>2</sup> He filed his petition in district court case number C-11-272379<sup>3</sup> on November

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<sup>1</sup>Docket No. 68417.

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

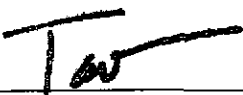
<sup>3</sup>Docket No. 68418.

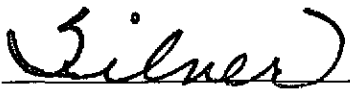
26, 2014, nearly two years after issuance of the remittitur on direct appeal on December 12, 2012.<sup>4</sup> Thus, Mosby's petitions were untimely filed. See NRS 34.726(1). Mosby's petitions were procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.*

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.

<sup>4</sup>*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