

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL JOSEPH KLEIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77675-COA

**FILED**

JUL 16 2019

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

**ORDER OF AFFIRMANCE**

Michael Joseph Klein appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Klein filed his petition on March 26, 2018, more than 16 years after entry of the judgment of conviction on February 14, 2002.<sup>2</sup> Thus, Klein's petition was untimely filed. *See* NRS 34.726(1). Klein's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

In his petition, Klein requested the district court to “remove” his conviction. Such a request was not based on an allegation that Klein's plea was involuntarily or unknowingly entered or that his plea was entered without the effective assistance of counsel and, therefore, was not permissible in a postconviction petition for a writ of habeas corpus stemming from a guilty plea. *See* NRS 34.810(1)(a). To the extent Klein's

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


<sup>2</sup>Klein did not pursue a direct appeal.

request could be construed as a proper challenge to his conviction, Klein did not demonstrate cause for the entire delay in filing his petition. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Finally, to the extent Klein's petition could be construed as a motion to modify or correct an illegal sentence, his claims fell outside the narrow scope of claims that may be raised in such a motion. See *Edwards v. State*, 112 Nev. 704, 708 918 P.2d 321, 324 (1996). Therefore, the district court did not err by denying the petition. Accordingly, we

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

 C.J.  
Gibbons

 J.  
Tao

 J.  
Bulla

cc: Hon. Kathleen M. Drakulich, District Judge  
Michael Joseph Klein  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>3</sup>Klein also appears to argue that California has improperly directed him to register as a sex offender. However, Klein did not raise this claim before the district court and we decline to consider it in the first instance on appeal. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).