

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFREY SCOTT STEVENS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79428-COA

FILED

MAY 15 2020

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

ORDER OF AFFIRMANCE

Jeffrey Scott Stevens appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on July 23, 2019. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Stevens filed his petition more than two years after issuance of the remittitur on direct appeal on December 13, 2016. *See Stevens v. State*, Docket Nos. 70349-COA, 70350-COA (Order of Affirmance, November 18, 2016). Stevens' petition was therefore untimely filed. *See NRS 34.726(1)*. The petition was also abusive because it raised claims new and different from those raised in Stevens' prior petition.¹ *See NRS 34.810(2)*. Stevens' petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice. *See NRS 34.726(1); NRS 34.810(3)*.

Stevens claimed he had good cause because he needed to exhaust state remedies to pursue his federal case. However, exhaustion of state remedies in order to seek federal court review was insufficient to demonstrate good cause. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d

¹*See Stevens v. State*, Docket Nos. 74317-COA, 74318-COA (Order of Affirmance, December 4, 2018).


1229, 1230 (1989); *abrogated by statute on other grounds as recognized by State v. Huebler*, 128 Nev. 192, 197 n.2, 275 P.3d 91, 95 n.2 (2012).

Stevens also claimed he had good cause because prior counsel failed to assert his claim that the State breached his guilty plea agreement. To the extent Stevens was referring to trial or appellate counsel, those claims themselves were untimely and, thus, could not constitute good cause. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (holding a good-cause “claim itself must not be procedurally defaulted”); *see also Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018) (holding a good-cause claim must be raised within one year of its becoming available). To the extent Stevens was referring to his previous postconviction counsel, this claim could not constitute good cause because he was not entitled to the appointment of postconviction counsel and thus had no right to the effective assistance of postconviction counsel. *See Brown v. McDaniel*, 130 Nev. 565, 571, 331 P.3d 867, 871-72 (2014).

For the foregoing reasons, we conclude the district court did not err by dismissing Stevens’ petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Robert W. Lane, District Judge
Jeffrey Scott Stevens
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk