

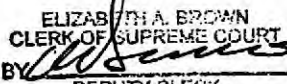
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARKEISHA MONET THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80059-COA

FILED

NOV 20 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Markeisha Monet Thomas appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Thomas argues on appeal that the district court erred by denying her petition as procedurally barred. Thomas filed her petition on May 23, 2019, more than two years after entry of the judgment of conviction on June 16, 2016.¹ Thus, Thomas's petition was untimely filed. *See* NRS 34.726(1). Thomas's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

In her petition, Thomas asserted that the trial-level court improperly restricted her from associating with her husband as a condition of her probation. Thomas further contended she had cause for her delay in raising a challenge to that probation condition because she was not aware

¹Thomas did not pursue a direct appeal.

that she was barred from associating with her husband until the trial-level court revoked her probation. Thomas asserted her petition was not procedurally barred because she filed it timely from the August 17, 2018, entry of the amended judgment of conviction revoking her probation.


However, the record demonstrates that the trial-level court specifically told Thomas in 2016 that she was not to associate with her husband due to his status as a convicted felon and his involvement in prostitution-related activities. Therefore, Thomas's challenge to the probation condition concerning association with her husband could have been raised before entry of the amended judgment of conviction, and Thomas did not demonstrate an impediment external to the defense prevented her from raising this claim in a timely filed petition. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004); *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Accordingly, Thomas failed to demonstrate the district court erred by denying the petition as procedurally barred.

Thomas also argues on appeal that the district court erred by denying the petition without conducting an evidentiary hearing concerning her assertion that a probation condition restricting her ability to contact her husband violated her right to marry. To warrant an evidentiary hearing, a petitioner must raise claims supported by specific allegations that are not belied by the record and, if true, would entitle her to relief. *Rubio v. State*, 124 Nev. 1032, 1046, 194 P.3d 1224, 1233-34 (2008). Because Thomas did not demonstrate cause for her delay, she fails to demonstrate the district court erred by declining to conduct an evidentiary hearing concerning her

procedurally-barred claims. *See id.* at 1046 n.53, 194 P.3d at 1234 n.53 (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Carolyn Ellsworth, District Judge
Hinds Injury Law Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk