

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER STEWART,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82525-COA

FILED

NOV 05 2021

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

ORDER OF AFFIRMANCE

Christopher Stewart appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 15, 2020. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.


Stewart filed his petition one year and five days after issuance of the remittitur on direct appeal on October 10, 2019. *See Stewart v. State*, Docket No. 74364-COA (Order of Affirmance, May 28, 2019). Thus, Stewart's petition was untimely filed. *See* NRS 34.726(1). Stewart's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*; *Gonzales v. State*, 118 Nev. 590, 593, 53 P.3d 901, 902-03 (2002) (strictly construing the one-year deadline imposed in NRS 34.726(1) and concluding that a petition filed one year and two days after the Nevada Supreme Court issued the remittitur was untimely).

Stewart argues the district court erred by denying his petition as procedurally barred because postconviction counsel was ineffective for failing to file his petition on time. Because the appointment of postconviction counsel was not statutorily or constitutionally required, *see*

Crump v. Warden, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996), Stewart was not entitled to the effective assistance of postconviction counsel, *see Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014). Therefore, his claim did not provide good cause to overcome the procedural bars, and we conclude the district court did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Christopher Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk