


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM JACOB MARTIN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

No. 83315

FILED

FEB 03 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

William Jacob Martin appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on March 16, 2021. Tenth Judicial District Court, Churchill County; Jim C. Shirley, Judge.

Martin contends the district court erred by denying his petition as procedurally barred without conducting an evidentiary hearing. Martin filed his petition more than one year after entry of the judgment of conviction on June 25, 2019. Thus, Martin's petition was untimely filed. *See* NRS 34.726(1). Martin's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice, *see id.*, or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015). To warrant an evidentiary hearing on his claims to overcome the procedural time bar, the claims had to be supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *See id.* at 967, 363 P.3d at 1155. We review the denial of an evidentiary hearing for an abuse of discretion. *Id.* at 969, 363 P.3d at 1156.

Martin first claimed he had cause for the delay because the district court never ruled on his motion requesting extension of time, which he filed May 15, 2020. However, Nevada does not allow tolling of the one-year filing period. *Brown v. McDaniel*, 130 Nev. 565, 576, 331 P.3d 867, 874 (2014). And “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory.” *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim.

Martin next suggested he had cause for the delay because he contracted COVID-19. Martin’s bare claim did not indicate whether he became ill, the dates of any illness, or that any such illness constituted an impediment external to the defense. Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003) (“[A]n adequate allegation of good cause would sufficiently explain why a petition was filed beyond the statutory time period.”); *cf. Phelps v. Dir., Nev. Dep’t of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (providing “limited intelligence,” illiteracy, or lack of an inmate law clerk do not excuse procedural bars), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 181, 69 P.3d 676, 681 (2003).

Martin next claimed he had cause for the delay because his prison was “put on quarantine” in March 2020 due to the COVID-19 pandemic and the law library was temporarily closed. He claimed this resulted in inadequate access to legal research materials and law clerk inmates. Martin’s bare claim did not specify how long any restrictions lasted or what materials he needed but was unable to access due to the

restrictions. Further, the State included with its motion to dismiss Martin's petition evidence that Martin had requested case law and/or legal materials from the law library at least once during the period between the alleged imposition of limitations and the one-year deadline for timely filing his petition, and Martin did not dispute this in his opposition to the State's motion to dismiss.¹ Finally, we note Martin filed at least one pleading in this case during that time. In light of these facts, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this good-cause claim.

Finally, Martin claimed he could overcome the procedural time bar because he was actually innocent. Martin claimed that his history of mental illness combined with his methamphetamine consumption rendered him legally insane at the time he committed the crimes in this case. Martin's bare claim did not allege that "he suffered from delusions such that he did not (1) know or understand the nature and capacity of his act; or (2) appreciate that his or her conduct was wrong." *Kassa v. State*, 137 Nev., Adv. Op. 16, 485 P.3d 750, 754 (2021) (internal quotation marks and punctuation omitted). Moreover, Martin's claim was one of legal, not factual, innocence. *See Bousley v. United States*, 523 U.S. 614, 615 (1998). ("Actual innocence means factual innocence, not mere legal insufficiency.").


¹Martin contends the district court abused its discretion by failing to consider his timely filed opposition to the State's motion to dismiss. Assuming, without deciding, that the district court abused its discretion by failing to consider Martin's pleading, Martin did not demonstrate the error affected his substantial rights. Martin's pleading simply repeated arguments made in his petition. Accordingly, we conclude he is not entitled to relief on this claim. *See* NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.").

Accordingly, we conclude Martin failed to demonstrate he was entitled to an evidentiary hearing on this gateway actual innocence claim.

Martin has not demonstrated the district court abused its discretion by denying him an evidentiary hearing. Further, for the reasons discussed above, we conclude the district court did not err by denying Martin's petition as procedurally time-barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
William Jacob Martin
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk