

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LADERION TURNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83094-COA

FILED

MAY 26 2022

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

ORDER OF AFFIRMANCE

Laderion Turner appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 11, 2019. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Turner filed his petition more than one year after entry of the judgment of conviction on February 21, 2018.¹ Thus, Turner's petition was untimely filed. See NRS 34.726(1). Moreover, Turner's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits.² See NRS 34.810(2).

¹Turner did not pursue a direct appeal.

²Turner's first petition was filed on October 31, 2018. It is unclear from the record provided to this court whether the petition was denied on the merits. Turner also filed a postsentence motion to withdraw guilty plea on December 3, 2018, which was to be construed as a postconviction petition for a writ of habeas corpus, see *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014), and was denied on the merits. Finally, he filed a postconviction petition for a writ of habeas corpus and motion to withdraw guilty plea (entitled a supplement) on June 25, 2019, which was denied as procedurally barred. Turner did not appeal from the denial of these pleadings.

Turner's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).


Turner alleged in his petition that he had good cause because he had only recently obtained his mental health records, these records were necessary to support his claim that his plea was invalid, and he filed his petition within a reasonable time of obtaining the records. The district court found Turner demonstrated good cause because he did not have access to his mental health records when he filed his first petition and because he may not "have had the capacity to understand what was happening at the entry of the plea [such that] the Court could not hold it against the Petitioner regarding what was included or not included in the first Petition." The district court then denied Turner's claims on the merits.

To demonstrate good cause, "a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules." *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Turner has raised claims regarding his mental health and intellectual difficulties in every prior postconviction pleading challenging the validity of his conviction. He thus failed to demonstrate that the lack of mental health records was an impediment to raising the claims. And we note that NRS chapter 34 provides for discovery of such necessary evidence to support properly pleaded claims. *See* NRS 34.780. Finally, any alleged inability to understand the postconviction proceedings would not have been good cause. *See Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (providing mental disability, 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). Therefore, we conclude Turner

failed to demonstrate an impediment external to the defense prevented him from complying with the procedural rules, and his petition was procedurally barred. Because the district court reached the correct result, we conclude the district court did not err by denying the petition. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerry A. Wiese, District Judge
Zaman & Trippiedi, PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk