

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO LEE MIXON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84677-COA

FILED

JUL 27 2022

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

Antonio Lee Mixon appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Crystal Eller, Judge.

Mixon argues that the district court erred by denying his February 3, 2022, petition as procedurally barred. Mixon filed his petition more than one year after issuance of the remittitur on direct appeal on April 13, 2020. *See Mixon v. State*, No. 78900-COA, 2020 WL 1487193 (Nev. Ct. App. Mar. 19, 2020) (Order of Affirmance). Thus, Mixon's petition was untimely filed. *See* NRS 34.726(1). Mixon's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

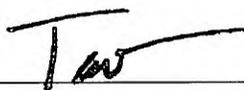
First, Mixon asserted that he had cause for the delay due to the ineffective assistance of his appellate counsel. “[I]n order to constitute adequate cause, the ineffective assistance of counsel claim itself must not be procedurally defaulted.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Mixon's ineffective-assistance-of-counsel claim was itself procedurally barred because he raised it in an untimely manner. And Mixon did not demonstrate an impediment external to the defense

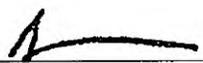
prevented him from raising his claim at an earlier time. *See id.* at 252-53, 71 P.3d at 506. Therefore, we conclude the district court did not err by denying this good-cause claim.

Second, Mixon appeared to assert that he had cause for his delay because he represented himself during the plea negotiations. This claim was reasonably available to have been raised in a timely filed petition, and Mixon did not demonstrate an impediment external to the defense prevented him from doing so. *Id.* Therefore, we conclude the district court did not err by denying this good-cause claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Crystal Eller, District Judge
Antonio Lee Mixon
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk