

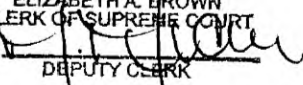
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO CHAVEZ-JUAREZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86618-COA

**FILED**

OCT 23 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Antonio Chavez-Juarez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

Chavez-Juarez first contends on appeal that the district court erred by denying his petition as procedurally barred without first conducting an evidentiary hearing regarding his good-cause claims. Chavez-Juarez filed his petition on November 9, 2022, more than seven years after issuance of the remittitur on direct appeal on December 15, 2014. *See Chavez-Juarez v. State*, No. 65279, 2014 WL 6612119 (Nev. Nov. 20, 2014) (Order of Affirmance). Thus, Chavez-Juarez's petition was untimely filed. *See* NRS 34.726(1). Moreover, Chavez-Juarez's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised claims new and different from those raised in

his previous petition.<sup>1</sup> See NRS 34.810(1)(b)(2); NRS 34.810(3).<sup>2</sup> Chavez-Juarez's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(4). To warrant an evidentiary hearing, a petitioner's good-cause claims must be supported by specific factual allegations that are not belied by the record and, if true, would entitle the petitioner to relief. See *Berry v. State*, 131 Nev. 957, 967, 363 P.3d 1148, 1154-55 (2015).

Chavez-Juarez claimed he had good cause because Spanish is his primary language, the prison law library does not have interpreters or legal materials in Spanish, and the district court failed to appoint him counsel to assist him with his previous petition. Chavez-Juarez failed to allege specific facts that demonstrated why it took him nearly five years to raise these good-cause claims. Thus, these good-cause claims are themselves untimely and could not constitute cause for his delay. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (holding a good-cause "claim itself must not be procedurally defaulted"); see also *Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018) (holding a good-cause claim must be raised within one year of its becoming available). Therefore, we conclude the district court did not err by denying these good-cause claims without first conducting an evidentiary hearing. And for the foregoing reasons, we further conclude the district court did not err by denying Chavez-Juarez's petition as procedurally barred.

---


<sup>1</sup>See *Chavez-Juarez v. State*, No. 70383, 2017 WL 896025 (Nev. Ct. App. Feb. 23, 2017) (Order of Affirmance).

<sup>2</sup>The subsections within NRS 34.810 were recently renumbered. We note the substance of the subsections cited herein was not altered. See A.B. 49, 82d Leg. (Nev. 2023).

Chavez-Juarez also contends on appeal the district court erred by denying his motion for the appointment of postconviction counsel. NRS 34.750(1) provides for the discretionary appointment of postconviction counsel if the petitioner is indigent and the petition is not summarily dismissed. Here, the district court found the petition was procedurally barred and declined to appoint counsel. Because the petition was subject to summary dismissal, *see* NRS 34.745(4), we conclude the district court did not abuse its discretion by declining to appoint counsel.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. David A. Hardy, District Judge  
Antonio Chavez-Juarez  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk