

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEMARENE COLEMAN,  
Appellant,  
vs.  
GABRIELA NAJERA, WARDEN;  
AARON D. FORD, ATTORNEY  
GENERAL; THE STATE OF NEVADA;  
AND STEVEN B. WOLFSON, D.A.,  
Respondents.

No. 86923-COA

FILED

NOV 28 2023

ELIZABETH A. TROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Demarene Coleman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 5, 2023. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Coleman filed his petition more than 15 years after entry of the judgment of conviction on August 22, 2007.<sup>1</sup> Thus, Coleman's petition was untimely filed. *See* NRS 34.726(1). Moreover, Coleman'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

---

<sup>1</sup>Coleman did not appeal from the judgment of conviction.

his previous petition.<sup>2</sup> See NRS 34.810(3).<sup>3</sup> Coleman's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(4).

Coleman claimed he had good cause due to the ineffective assistance of counsel at the entry of plea stage. "[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). Coleman's ineffective-assistance-of-counsel claim was itself procedurally barred because he raised it in an untimely manner. And Coleman 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 that Coleman was not entitled to relief based on this claim.

Coleman also appears to argue several good-cause claims for the first time on appeal, and we decline to consider these good-cause claims in the first instance. See *McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999). Accordingly, we conclude the district court did not err by denying the petition as procedurally barred.

Finally, Coleman argues the district court erred by denying his request 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.

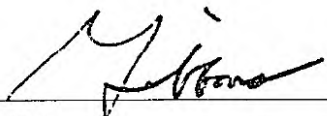
---

<sup>2</sup>Coleman filed a postconviction petition for a writ of habeas corpus on August 19, 2008, and did not appeal its denial.

<sup>3</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).

Coleman's petition was subject to summary dismissal because it was procedurally barred pursuant to NRS 34.810(3). See NRS 34.745(4). Therefore, 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. Jacqueline M. Bluth, District Judge  
Demarene Coleman  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk