

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

J.D. CALDWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67520

**FILED**

**AUG 05 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying, as procedurally barred, appellant J.D. Caldwell's post-conviction petitions for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

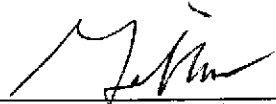
Caldwell filed his first petition on September 11, 2014, and filed his second petition September 24, 2014, two years after entry of the judgment of conviction on September 27, 2012. The district court determined that both of Caldwell's petitions were untimely filed. See NRS 34.726(1). With respect to the first petition, the district court further determined Caldwell's assertions of ineffective assistance of counsel and his mental incompetency did not constitute good cause to overcome the procedural bar. See *id.*; *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). With respect to the second petition, the district court determined Caldwell failed to demonstrate good cause to


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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude the record is sufficient for our review and briefing is unwarranted. See *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

overcome the procedural bar because plea counsel's actions and the district court's failure to treat a prior motion for jail time credit did not constitute an impediment external to the defense. See NRS 34.726(1); *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). We conclude the district court did not err by denying the petition as untimely filed. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Kathleen E. Delaney, District Judge  
J.D. Caldwell  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>We have reviewed all documents Caldwell has submitted in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Caldwell has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.