

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NICHOLAS JAMES WILLING,  
Appellant,  
vs.  
BRIAN WILLIAMS, WARDEN,  
SOUTHERN DESERT CORRECTIONAL  
CENTER, Respondent.

No. 68132

**FILED**

NOV 19 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order dismissing a postconviction petition for a writ of habeas corpus. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Appellant Nicholas Willing filed his petition on April 23, 2015, nearly 2 years after issuance of the remittitur on direct appeal on June 11, 2013. *See Willing v. State*, Docket No. 61421 (Order of Affirmance, May 14, 2013). Thus, Willing's petition was untimely filed. *See* NRS 34.726(1). Willing's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

In an attempt to demonstrate good cause to excuse the procedural bar, Willing asserted that he had inadequate access to the court and filings due to lock-downs at the prison, library cancellations, a broken copy machine in the law library, the destruction of law books in the library, and the computer law research system being down. Willing failed to demonstrate that lack of access to a law library deprived him of meaningful access to the courts. *See Bounds v. Smith*, 430 U.S. 817, 828

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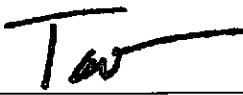
(1977), limited by *Lewis v. Casey*, 518 U.S. 343, 354-56 (1996). Williams also failed to demonstrate that the temporary problems with access he alleged could account for the entire length of the delay. Therefore, he failed to demonstrate that official interference caused him to be unable to comply with the procedural bar. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).

Willing also claimed that he had good cause to excuse the untimely filing because he just received discovery that shows "hidden stealth fraud" and all Nevada Revised Statutes used to convict him are void. And in a related argument, he asserted that, because the statutes are void, he is actually and factually innocent of all charges. The discovery Willing refers to is research that was completed by another inmate. The fact that Willing only recently obtained this discovery did not demonstrate that there was an impediment external to the defense that prevented him from filing a timely petition. See *id.* Moreover, he failed to demonstrate that he was actually innocent because he failed to demonstrate that the statutes he was convicted under are void. See *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (to succeed on a claim of actual innocence, a petitioner must show "it is more likely than not that no reasonable juror would have convicted him in light of the new evidence" (quoting *Schlup v Delo*, 513 U.S. 298, 327 (1995))); see also *Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). The Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes reproduce those laws as classified, codified and annotated by the Legislative Counsel. NRS 220.110; NRS 220.120.

Because Willing failed to demonstrate good cause to excuse the procedural bar, we conclude the district court did not err by dismissing Willing's petition, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Robert W. Lane, District Judge  
Nicholas James Willing  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk