

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHELLERY DENISE MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68823

FILED

DEC 29 2015

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant Shellery Denise Moore filed her petition on June 3, 2015, more than one year after entry of the judgment of conviction on January 10, 2014.² Thus, Moore's petition was untimely filed. See NRS 34.726(1). Moore's petition was procedurally barred absent a

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

²No direct appeal was taken.

demonstration of good cause—cause for the delay and undue prejudice.
See id.

On February 27, 2015, Moore requested an enlargement of time in which to file her petition, alleging she had not been detained in Nevada until January 2015, and did not have access to a law library. The district court concluded these allegations constituted cause to excuse the delay and granted Moore until May 26, 2015, to file her petition. *See Lewis v. Casey*, 518 U.S. 343, 354-55 (1996) (explaining prison inmates have a right to legal materials needed in order to challenge their sentences).


Moore did not meet the new deadline by filing her petition on June 3, 2015, and she did not attempt to provide cause for her additional delay. Therefore, the district court concluded Moore's petition was untimely because Moore did not demonstrate an impediment external to the defense excused the entire delay. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). "Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory," *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005), and accordingly, the district court properly denied the petition as procedurally barred. *See State v. Huebler*, 128 Nev. ___, ___, 275 P.3d 91, 95 (2012) (explaining a district court's factual findings with


respect to good cause are entitled to deference if supported by substantial evidence and not clearly wrong).

Having concluded Moore is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
Shellery Denise Moore
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk