

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK HEARRING, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68968

FILED

APR 14 2016

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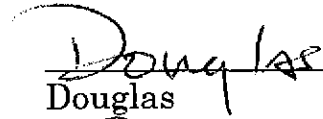
ORDER OF AFFIRMANCE

This is a *pro se* appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Appellant filed his postconviction petition on March 30, 2015, more than one year after entry of the judgment of conviction; he did not appeal the judgment of conviction. Therefore, the petition was untimely filed and procedurally barred absent of demonstration of good cause and prejudice. See NRS 34.726(1). To overcome the procedural default, appellant argues that he was awaiting resolution of his motion to withdraw his guilty plea before filing his petition. However, the filing of a motion to withdraw his guilty plea is not an impediment external to the defense that prevented him from timely filing his postconviction petition. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Because appellant failed to establish good cause to excuse the delay in

filing his petition, the district court did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Douglas

 _____, J.
Cherry

 _____, J.
Gibbons

cc: Hon. Eric Johnson, District Judge
Frank Herring, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk