


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEBARON SANDERS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69790

**FILED**

NOV 18 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Debaron Sanders filed his petition on October 8, 2015, more than two years after issuance of the remittitur on direct appeal on June 11, 2013. *See Sanders v. State*, Docket No. 59355 (Order of Affirmance, May 14, 2013). Thus, Sanders' petition was untimely filed. *See* NRS 34.726(1). Sanders' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Sanders claimed the decisions in *Martinez v. Ryan*, 566 U.S. \_\_\_, 132 S. Ct. 1309 (2012) and *Nguyen v. Curry*, 736 F.3d 1287 (9th Cir. 2013) provided good cause because, in Nevada, ineffective assistance of counsel claims must be raised in a collateral proceeding; he had

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<sup>1</sup>This 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).

substantial claims of ineffective assistance of trial and appellate counsel to raise; and he did not have counsel appointed to assist him with filing his first postconviction petition.<sup>2</sup> The district court determined Sanders failed to demonstrate good cause to overcome the procedural bar and denied his petition.

The Nevada Supreme Court has held that *Martinez* does not apply to Nevada's statutory postconviction procedures. See *Brown v. McDaniel*, 130 Nev. \_\_\_, \_\_\_, 331 P.3d 867, 871-72 (2014). Thus, the decision in *Martinez* did not provide good cause for filing a late petition. And because *Nguyen* merely discussed and applied the decision in *Martinez*, it also did not provide good cause to overcome the procedural bar. Therefore, we conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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<sup>2</sup>Sanders filed a postconviction petition for a writ of habeas corpus prior to filing the instant petition. That petition was also untimely filed and dismissed as procedurally barred. Sanders did not appeal the denial of that petition.

cc: Hon. Douglas W. Herndon, District Judge  
Debaron Sanders  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk