

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEVONTE SHEPPARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70411

FILED

JAN 19 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Devonte Sheppard appeals from a district court order denying his postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Sheppard claims his counsel was ineffective and asks this court to dismiss his conviction for possession of a firearm by a felon and to modify his sentence.

Sheppard filed his petition on January 25, 2016, approximately one and one-half years after entry of the judgment of conviction on August 18, 2014. Thus, Sheppard's petition was untimely filed. *See* NRS 34.726(1). Sheppard's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Below, Sheppard appeared to have argued he had good cause to excuse the untimely filing of his petition because he was not aware he could pursue postconviction relief. The district court determined

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

ignorance of the law was not an impediment external to the defense and, therefore, it did not constitute good cause to excuse the untimely filing of the petition. *See Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). The court also determined Sheppard failed to demonstrate good cause because the record demonstrated Sheppard was informed in the guilty plea agreement of his ability to pursue postconviction relief. We conclude the district court did not abuse its discretion by finding Sheppard failed to demonstrate good cause to excuse the untimely filing of his petition and dismissing the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Eric Johnson, District Judge
Devonte Sheppard
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²The Honorable Jerome T. Tao, Judge, did not participate in the decision in this matter.