

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARREN LAMONT MCCOY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70975

**FILED**

MAR 23 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Appellant Darren Lamont McCoy appeals from a district court order dismissing the postconviction petition for a writ of habeas corpus he filed on August 31, 2015.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

McCoy's petition was filed one year and eleven days after the remittitur on direct appeal was issued on August 20, 2014;<sup>2</sup> consequently, it was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

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

<sup>2</sup>*McCoy v. State*, Docket No. 63316 (Order of Affirmance, July 23, 2014).

McCoy claims the district court erred by dismissing his petition because he was not an attorney, he should have been allowed an evidentiary hearing to develop the record, he was never given a chance due to the ineffectiveness of postconviction counsel, and the Nevada Southern Detention Center's law library provided inadequate support.<sup>3</sup>

The district court found McCoy's claims he was not an attorney, the law library was inadequate, and postconviction counsel was ineffective did not provide good cause to excuse the untimely petition. McCoy had ample time (eight months) to file a habeas petition while housed in the High Desert State Prison. And because McCoy's conviction was the result of a guilty plea and his habeas petition was time-barred, the issues were simple and could be resolved without an evidentiary hearing.

We defer to the district court's factual findings, *see State v. Huebler*, 128 Nev. 192, 197, 275 P.3d 91, 95 (2012), and we conclude the district court did not err by dismissing McCoy's petition as procedurally barred, *see* NRS 34.770(2); *Brown v. McDaniel*, 130 Nev. \_\_\_, \_\_\_, 331 P.3d 867, 870 (2014); *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005); *Phelps v. Dir., Nev. Dep't of Prisons*, 104

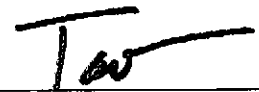
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<sup>3</sup>McCoy also claims he can show that prison officials interfered with his ability to file a timely petition, but he did not make this showing in the court below and we will not consider this bare allegation on appeal.

Nev. 656, 660, 764 P.2d 1303, 1306 (1988), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003); *see generally Lewis v. Casey*, 518 U.S. 343, 349 (1996). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Michael Villani, District Judge  
Darren Lamont McCoy  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk