

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALCIBIADES FELIX,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70321

FILED

MAR 23 2017

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

ORDER OF AFFIRMANCE

Appellant Alcibiades Felix appeals from the district court order denying the postconviction petition for a writ of habeas corpus he filed on October 26, 2015.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Felix did not pursue a direct appeal and this habeas petition was filed more than two years after the judgment of conviction was entered on February 21, 2013; consequently, his petition was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).


In an attempt to overcome the procedural bar to his petition, Felix claimed he asked defense counsel to file an appeal and defense counsel failed to do so. The district court found Felix failed to establish good cause because he made no attempt to explain why he waited two and half years to file the instant petition.


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).

The district court's finding is supported by the record and we conclude the district court did not err by denying Felix's petition without appointing counsel or conducting an evidentiary hearing. See NRS 34.750(1); NRS 34.770(2); *Hathaway v. State*, 119 Nev. 248, 254, 71 P.3d 503, 507 (2003) (“[Appeal deprivation] claims must be filed within the one-year statutory period unless the petitioner can demonstrate that some other cause existed to excuse the delay.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. William D. Kephart, District Judge
Alcibiades Felix
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk