

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HAROLD D. HARDEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71244

FILED

AUG 16 2017

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

ORDER OF AFFIRMANCE

Harold D. Harden appeals from a district court order denying his postconviction motion to withdraw his guilty plea.¹ Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Harden claims the district court erred in denying his motion because this court had previously determined his “motion was not untimely and was not properly construed as [a] petition for [a] writ of habeas corpus by the district court.” Harden misapprehends our decision.

In *Harden v. State*, Docket No. 68488 (Order Affirming in Part, Reversing in Part and Remanding, November 19, 2015), we observed the district court had properly construed Harden’s motion as a postconviction petition for a writ of habeas corpus but failed to give him an opportunity to cure any defects that prevented the petition from complying with the procedural requirements of NRS Chapter 34. We reversed the district court’s order and remanded the matter so Harden would have an opportunity to cure the defects in his petition.

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


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On remand, Harden filed a motion purporting to cure the defects in his petition, the State filed a response, and the district court entered an order denying the petition. In its order, the district court made the following findings: Harden did not pursue a direct appeal. Harden filed his petition on June 10, 2015, more than five years after the judgment of conviction was filed on May 5, 2010. The State affirmatively pleaded laches. And Harden failed to provide any good cause explanation for the delay in filing.

The record on appeal supports the district court's findings, and we conclude the district court did not err in denying Harden's procedurally-barred petition. See NRS 34.726(1); NRS 34.800; *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1974 (2005) (explaining the application of procedural bars is mandatory). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kathleen E. Delaney, District Judge
Harold D. Harden
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk