

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUKE MARTIN SPREADBOROUGH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71916

FILED

DEC 13 2017

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

ORDER OF AFFIRMANCE

Luke Martin Spreadborough appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Spreadborough filed his petition on October 4, 2016, more than one year after entry of the judgment of conviction on May 4, 2015 and the amended judgment of conviction on August 5, 2015.² Thus, Spreadborough's petition was untimely filed. See NRS 34.726(1). Spreadborough's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.*

The district court noted Spreadborough did not attempt to demonstrate cause to excuse his delay in filing his petition and

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

²Spreadborough did not pursue a direct appeal.

Spreadborough wrote in his petition it was filed in a timely manner. A review of the record reveals the district court did not err in concluding the petition was procedurally barred.

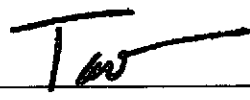
Spreadborough argues on appeal he had cause for the delay because he attempted to file the petition prior to the one-year deadline, but was provided with an incorrect mailing address for the Washoe County District Court and his documents were subsequently lost in the mail. Spreadborough asserts he raised this issue before the district court in an affidavit and argues the district court erred in failing to consider this issue. A review of the record reveals the affidavit was filed with a request for submission of Spreadborough's petition.

A petitioner may raise claims in his initial petition and, if the district court appoints postconviction counsel, in a supplement. NRS 34.724(1); NRS 34.750(3). All other pleadings may only be filed if ordered by the district court. NRS 34.750(5); *see also State v. Powell*, 122 Nev. 751, 758, 138 P.3d 453, 458 (2006) (explaining NRS 34.750 grants the district court broad authority to permit supplemental pleadings in postconviction proceedings). To the extent Spreadborough's affidavit could be construed as a request to add a claim alleging cause for the delay, Spreadborough does not demonstrate the district court abused its discretion by failing to permit such a request. As Spreadborough did not properly allege cause for his delay before the district court, we decline to consider such a claim in the

first instance. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Elliott A. Sattler, District Judge
Luke Martin Spreadborough
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³We have reviewed all documents Spreadborough has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Spreadborough has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.