

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VINCENT DEAN CORDOVA, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74135

FILED

JUN 13 2018

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

ORDER OF AFFIRMANCE

Vincent Dean Cordova, Sr., appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Cordova argues the district court erred by denying his petition as procedurally barred. Cordova filed his petition on August 2, 2017, more than two years after issuance of the remittitur on direct appeal on April 14, 2015. *Cordova, Sr. v. State*, Docket No. 66362 (Order of Affirmance, March 17, 2015). Thus, Cordova's petition was untimely filed. *See* NRS 34.726(1). Cordova's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Cordova claimed he had good cause because he lacks legal knowledge and had to rely upon inmate law clerks for legal assistance. However, these issues did not constitute an impediment external to the

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

defense which prevented Cordova from complying with the procedural bars. *Cf. Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding petitioner's claim of organic brain damage, borderline mental retardation and reliance on assistance of an inmate law clerk unschooled in the law did not constitute good cause for filing a successive postconviction petition), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 69 P.3d 676 (2003). Therefore, we conclude the district court did not err by denying the petition as procedurally barred.

Next, Cordova argues the district court erred by denying his request for the appointment of postconviction counsel. The appointment of postconviction counsel was discretionary in this matter. *See* NRS 34.750(1). After a review of the record, we conclude the district court did not abuse its discretion in this regard as this matter was not sufficiently complex so as to warrant the appointment of postconviction counsel. *See Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).

Finally, Cordova argues the district court erred by declining to conduct an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record and, if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046 & n.53, 194 P.3d 1224, 1233-34 & n.53 (2008) (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). The district court concluded Cordova's claims did not

meet that standard and the record before this court reveals the district court's conclusions in this regard were proper. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Silver, C.J.
Silver

Tao, J.
Tao

Gibbons, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Vincent Dean Cordova, Sr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk