

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONALD ARTHUR EVANS, IV,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74488

**FILED**

AUG 14 2018

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

*ORDER OF AFFIRMANCE*

Donald Arthur Evans, IV, appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on September 7, 2017.<sup>1</sup> Tenth Judicial District Court, Churchill County; Thomas L. Stockard, Judge.

Evans filed his petition more than one year after issuance of the remittitur on direct appeal on July 19, 2016. *See Evans v. State*, Docket No. 69607 (Order of Affirmance, June 22, 2016). Thus, Evans' petition was untimely filed. *See* NRS 34.726(1). Evans' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* Evans failed to allege good cause on the face of the petition he filed below, *see* NRS 34.735, and the district court dismissed the petition as procedurally barred.

On appeal, Evans argues the district court should have either ordered him to show cause why his petition should not be dismissed or construed his claims raised in the petition as arguing a fundamental

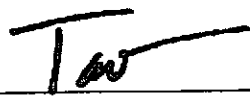
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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

miscarriage of justice. We disagree. The burden for demonstrating cause to overcome the procedural bar rests with Evans. See NRS 34.726(1). Because, Evans did not allege good cause below, we conclude the district court did not err by denying the petition as procedurally time barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. Thomas L. Stockard, District Judge  
Donald Arthur Evans, IV  
Attorney General/Carson City  
Churchill County District Attorney/Fallon  
Churchill County Clerk

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<sup>2</sup>We have reviewed all documents Evans has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Evans 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.