

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMOND KEITH WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74540-COA

FILED

NOV 19 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Lamond Keith Walker appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 12, 2017.¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Walker filed his petition more than one year after entry of the judgment of conviction on June 15, 2016. Thus, Walker's petition was untimely filed. *See* NRS 34.726(1). Walker's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

First, Walker claimed he had good cause because counsel was ineffective for misleading him regarding preliminary hearings and charges being dismissed. This claim did not provide good cause because this claim was available to be raised in a timely filed petition and ineffective

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

assistance of counsel claims that are themselves procedurally barred cannot establish good cause. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Therefore, the district court did not err by finding this claim did not constitute good cause to overcome the procedural bar.

Second, Walker claimed he had good cause because he lacked adequate access to the law library in prison. Specifically, he claimed he was only allowed access once a week and the library was occasionally closed. Walker did not allege how these incidents prevented him from complying with the procedural bars and, thus, made only a bare claim. A bare claim, such as this one, is insufficient to demonstrate a petitioner is entitled to relief and Walker did not demonstrate failure to have more time to use the law library constituted an impediment external to the defense that prevented him from raising his claims in a timely manner. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984); *Hathaway*, 119 Nev. at 252-253, 71 P.3d at 506. Therefore, the district court did not err by finding this claim did not constitute good cause to overcome the procedural bar. Accordingly, we conclude the district court did not err by denying the petition as procedurally barred.

Next, Walker alleged the justice court and, therefore, the district court lacked jurisdiction over this case because the State previously dismissed the same charges in justice court after the preliminary hearing began. This claim is not supported by the record before this court. The State dismissed the charges prior to the preliminary hearing commencing. Thus, the State had the right to refile the charges in a criminal complaint. *See NRS 174.085(5)*. Therefore, the justice and district courts did not lack

jurisdiction over this case and the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Silver

Silver

C.J.

Tao

Tao

J.

Gibbons

Gibbons

J.

cc: Hon. Douglas Smith, District Judge
Lamond Keith Walker
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk