

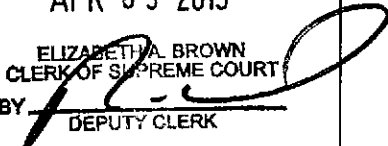
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN MANUEL ACEVEDO,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 75578-COA

FILED

APR 05 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Juan Manuel Acevedo appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 22, 2017.¹ Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Acevedo filed his petition more than two years after entry of the judgment of conviction on September 25, 2015. Acevedo's direct appeal was dismissed as untimely. *Acevedo v. State*, Docket No. 71324 (Order Dismissing Appeal, October 20, 2016). His petition was therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1); *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998) (holding that the time for filing a post-conviction petition for a writ of habeas corpus begins to run at the filing of the judgment of conviction where no timely direct appeal was taken).

Acevedo claimed he had good cause to excuse the procedural bar because he filed his petition within one year of the amended judgment of

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

19-14999

conviction. The substantive claims raised in Acevedo's petition had been previously raised² and did not challenge the proceedings that lead to the amendment. The amended judgment of conviction thus did not constitute good cause to overcome the procedural bar. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004) (holding such claims must "challenge the proceedings leading to a substantive amendment to the judgment and could not have been raised in prior proceedings"). We therefore conclude the district court did not err by denying Acevedo's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.³




Gibbons

, C.J.



Tao

, J.



Bulla

, J.

cc: Hon. Michael Montero, District Judge
Juan Manuel Acevedo
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk

²Acevedo raised similar claims in his first, untimely postconviction petition for a writ of habeas corpus, which he filed prior to the amended judgment of conviction. Acevedo did not appeal the district court's dismissal of that petition.

³We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. *See NRS 34.750(1); Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 760-61 (2017).