

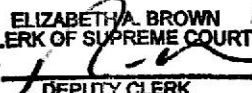
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FREDYS A. MARTINEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75760-COA

FILED

JUL 17 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Fredys A. Martinez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 29, 2017. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.


Martinez filed his petition more than nine years after issuance of the remittitur on direct appeal on June 3, 2008. *See Martinez v. State*, Docket No. 49608 (Order of Affirmance, May 7, 2008). Thus, Martinez' petition was untimely filed. *See NRS 34.726(1)*. Martinez' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*


Martinez claims the district court erred by denying his good cause claims: (1) he was entitled to equitable tolling; (2) he was unable to speak, read, or write English; (3) he lacked meaningful access to the law library; and (4) he could not obtain a copy of his appellate case file. As noted in the answering brief on appeal, Martinez failed to provide this court with a copy of his petition, the State's response to the petition, and the transcript of the hearing on the petition. These documents are necessary for this court's resolution of this appeal. *See NRAP 30(b)(1), (b)(2)*. It is the

responsibility of the appealing party to provide these documents on appeal. See NRAP 30(b)(3); *Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) (“The burden to make a proper appellate record rests on appellant.”). Because Martinez failed to provide these documents, we are unable to conclude the district court erred by denying Martinez’ good cause claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kathleen C. Delaney, District Judge
Law Office of Betsy Allen
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk