

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CESAR VICTOR VALENZUELA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70800

**FILED**

APR 19 2017

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

*ORDER OF AFFIRMANCE*

Appellant Cesar Valenzuela appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus, a petition for a writ of extraordinary relief, and a motion to appoint counsel.<sup>1</sup> Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Valenzuela filed his petition on March 10, 2016, 17 years after entry of the judgment of conviction on March 1, 1999.<sup>2</sup> Thus, Valenzuela's petition was untimely filed.<sup>3</sup> See NRS 34.726(1). Valenzuela's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.*

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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

<sup>2</sup>Valenzuela did not pursue a direct appeal.

<sup>3</sup>The entry of an amended judgment of conviction on July 15, 2015 and a second amended judgment of conviction on July 28, 2015, did not provide good cause because the claims raised in Valenzuela's petition do not relate to the amendments to the judgment of conviction. See *Sullivan v. State*, 120 Nev. 537, 540-42, 96 P.3d 761, 763-65 (2004).

Valenzuela claimed he had good cause to overcome the procedural bars because his claims were based on newly discovered evidence that the Nevada Revised Statutes were not properly enacted and because subject matter jurisdiction can be raised at any time. Valenzuela claimed the enactment of the Nevada Revised Statutes was flawed and unconstitutional because several requirements of the bill creating the Nevada Revised Statutes were not met and members of the Nevada Supreme Court improperly participated in their creation in 1957. .

Valenzuela failed to demonstrate good cause to overcome the procedural bars because his claims regarding the Nevada Revised Statutes were available to be raised in a timely petition and ignorance of the law is not an impediment external to the defense. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003); *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). Valenzuela also failed to demonstrate his claims regarding the Nevada Revised Statutes implicated the jurisdiction of the district court. *See Nev. Const. art. 6, § 6; NRS 171.010; United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional power to adjudicate the case.” (internal quotation marks omitted)).


Valenzuela conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes merely “constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law.” NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated by the Legislative Counsel. *See NRS 220.120*. The actual laws of Nevada are contained in the Statutes of Nevada. Thus, Valenzuela failed to demonstrate the district court lacked subject matter jurisdiction over him.

Therefore, Valenzuela failed to demonstrate good cause to overcome the procedural bar, and we conclude the district court did not err in denying the postconviction petition for a writ of habeas corpus as procedurally barred.

In his petition for a writ of extraordinary relief filed on March 10, 2016, Valenzuela challenged his judgment of conviction, and requested the district court to expunge his conviction and order his immediate release from prison. We conclude the district court correctly denied the petition because Valenzuela improperly challenged the validity of a judgment of conviction through a petition for a writ of extraordinary relief. *See* NRS 34.160; NRS 34.320; NRS 34.724(2) (stating a postconviction petition for a writ of habeas corpus is the proper vehicle with which to challenge a judgment of conviction). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

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

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

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

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<sup>4</sup>We also conclude the district court did not abuse its discretion in declining to appoint postconviction counsel. *See* NRS 34.750(1).

cc: Hon. Douglas W. Herndon, District Judge  
Cesar Victor Valenzuela  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk