

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CRISTIAN GUERRERO-MENA,
Appellant,
vs.
BRIAN E. WILLIAMS, SR., WARDEN;
AND THE STATE OF NEVADA,
Respondents.

No. 71630

FILED

OCT 11 2017

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

ORDER OF AFFIRMANCE

Cristian Guerrero-Mena appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; William A. Maddox, Senior Judge.

Guerrero-Mena filed his petition on June 22, 2016, more than one year after entry of the judgment of conviction on June 17, 2015. Thus, Guerrero-Mena's petition was untimely filed. *See* NRS 34.726(1). Guerrero-Mena's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Guerrero-Mena appeared to claim the procedural time bar did not apply to his petition because he challenged the jurisdiction of the district court. He asserted he recently learned the Nevada Revised Statutes do not

¹This 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).

meet constitutional mandates and are invalid because they do not have an enactment clause, justices of the Nevada Supreme Court unconstitutionally participated in the creation of the Nevada Revised Statutes, the revision of statutes violated separation of powers principles, and the laws authorizing the revised statutes were not passed in accordance with the Nevada Constitution and other laws.

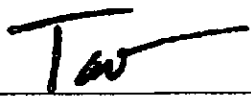
These claims did not implicate the jurisdiction of the courts, and therefore, the procedural time bar applies to Guerrero-Mena's petition. *See* Nev. Const. art. 6, § 6; NRS 171.010; *United States v Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)). Further, these claims were reasonably available to be raised in a timely petition and Guerrero-Mena did not demonstrate an impediment external to the defense prevented him from doing so. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, the district court properly dismissed the petition as procedurally barred.

To the extent Guerrero-Mena also asserted his petition should be considered timely filed because he dated or mailed it prior to the expiration of the one-year deadline, this assertion lacked merit. Postconviction petitions for a writ of habeas corpus are filed when received by the district court and not when dated by the petitioner or delivered to prison officials for mailing. *See Gonzales v. State*, 118 Nev. 590, 595, 53 P.3d 901, 904 (2002). As Guerrero-Mena’s petition was filed after the

timely-filing deadline, the district court properly concluded the petition was procedurally barred.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Hon. William A. Maddox, Senior Judge
Cristian Guerrero-Mena
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²Guerrero-Mena also appeared to assert the Nevada Department of Corrections has failed to appropriately apply credits to his sentence. Such a claim challenged the computation of time served and cannot be raised in a postconviction petition for a writ of habeas corpus challenging the validity of the judgment of conviction. See NRS 34.738(3). However, the denial of this claim would be without prejudice, allowing Guerrero-Mena to properly and separately file a postconviction petition for a writ of habeas corpus challenging the computation of time served in the county in which he is incarcerated. See NRS 34.724(1); NRS 34.738(1).