

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT LINZY BELLON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71428

FILED

FEB 23 2017

ELIZABETH A. DROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

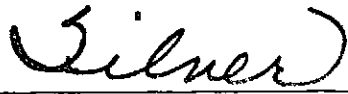
Appellant Robert Bellon appeals from an order of the district court denying a motion for amended judgment of conviction to include jail time credits.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.


Bellon claims the district court erred by denying his August 15, 2016, motion for amended judgment because he is entitled to credits for 1600 days he spent in county jail awaiting trial. We conclude the district court did not err by denying the motion because a claim for presentence credits is a claim challenging the validity of the judgment of conviction and sentence that must be raised on direct appeal or in a postconviction petition for a writ of habeas corpus filed in compliance with NRS chapter 34. *See Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1166 (2006). Further, even if the motion was construed to be a postconviction petition for a writ of habeas corpus, the petition would have been untimely. *See* NRS 34.726(1). Bellon filed his petition more than 8


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

years after the remittitur was issued on direct appeal on February 19, 2008. *See Bellon v. State*, Docket No. 47798, (Order of Affirmance, October 17, 2007).² Thus, the petition would have been procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *Id.* Bellon failed to demonstrate why he could not raise this claim in a timely petition. Therefore, we conclude the district court did not err in denying the motion to amend, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Robert Linzy Bellon
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²An amended judgment of conviction was filed on September 23, 2014. This amended judgment did not affect the amount of days of credit awarded to Bellon. *See Sullivan v. State*, 120 Nev. 537, 540-42, 96 P.3d 761, 763-65 (2004). Further, we note Bellon's motion was not timely filed from the date of the amended judgment.