

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IVAN GARCIA, A/K/A RONY IVAN  
GARCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71527

**FILED**

OCT 11 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Ivan Garcia appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on June 22, 2016.<sup>1</sup> Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

Garcia's petition was filed more than ten years after the entry of the judgment of conviction on August 1, 2005;<sup>2</sup> consequently, it was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See NRS 34.726(1).

Garcia claims the district court erred by denying his petition because (1) “the facts of [his] attorney’s deficient, unreasonable, and ineffective assistance reveal and demonstrate that [his] defense was replete with errors” and (2) he was entitled to the retroactive application of a substantive rule announced in *Byford v. State*, 116 Nev. 215, 994 P.3d 700 (2000). However, Garcia did not raise these claims as claims of good cause in his habeas petition, and we decline to consider them as such for the first

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

<sup>2</sup>No direct appeal was taken.

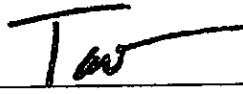
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time on appeal. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1013, 103 P.3d 25, 33 (2004).

We conclude the district court did not err in denying Garcia's procedurally barred habeas petition. *See NRS 34.726(1); State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (explaining the application of procedural bars is mandatory). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Kerry Louise Earley, District Judge  
Ivan Garcia  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk