

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PERRY PINCKNEY, A/K/A PINCKNEY  
PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

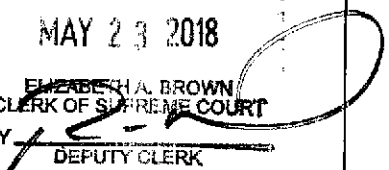
No. 73496

PERRY PINCKNEY, A/K/A PINCKNEY  
PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73497

**FILED**

MAY 23 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Perry Pinckney appeals from an order of the district court denying a motion to withdraw guilty plea and a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

<sup>1</sup>Docket No. 73496 is an appeal from the denial of a motion to withdraw guilty plea and Docket No. 73497 is an appeal from the denial of a postconviction petition for a writ of habeas corpus. These appeals have been submitted for decision without oral argument and we conclude the

Pinckney filed a postconviction petition for a writ of habeas corpus on February 7, 2017, and a motion to withdraw guilty plea on February 14, 2017.<sup>2</sup> Both documents were filed more than one year after entry of the judgment of conviction on November 24, 2017.<sup>3</sup> Thus, they were untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See NRS 34.726(1).

Pinckney claimed he had good cause because he did not have enough money to purchase envelopes and postage, or to make copies until recently. However, Pinckney did not demonstrate he was prevented from filing a petition or lacked access to legal materials over the entire length of his delay, and therefore, he failed to demonstrate an impediment external to the defense prevented him from filing a petition in a timely manner. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003); see also *Lewis v. Casey*, 518 U.S. 343, 351 (1996) (a prisoner must “demonstrate that the alleged shortcomings in the library or legal assistance program hindered his efforts to pursue a legal claim.”). Therefore, we conclude the

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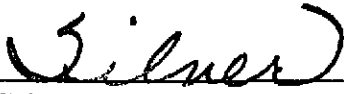
records are sufficient for our review and briefing is unwarranted. See NRAP 34(f)(3), (g).

<sup>2</sup>A postconviction petition for a writ of habeas corpus is the exclusive remedy to challenge the validity of a guilty plea after sentencing. See *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014). Therefore, it was proper to construe Pinckney’s motion to withdraw guilty plea as a postconviction petition for a writ of habeas corpus.


<sup>3</sup>Pinckney did not pursue a direct appeal.

district court did not err in denying the petition and motion as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Michael Villani, District Judge  
Perry Pinckney  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk