

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JABRON DUVALL CARR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78130-COA

FILED

OCT 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jabron Duvall Carr appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Carr filed his petition on July 25, 2018, more than one year after entry of the judgment of conviction on November 10, 2016. Thus, Carr's petition was untimely filed.¹ See NRS 34.726(1). Moreover, Carr's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² See NRS 34.810(2). Carr's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

Carr claimed he had good cause due to the district court's failure to appoint postconviction counsel to represent him with his prior

¹Carr did not pursue a direct appeal.

²Carr filed a postconviction petition for a writ of habeas corpus in the district court on April 24, 2017, but he did not appeal from the district court's denial of that petition.

petition. However, the appointment of postconviction counsel was not statutorily or constitutionally required. See *Brown v. McDaniel*, 130 Nev. 331 P.3d 867, 871-72 (2014); *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Thus, the failure to appoint postconviction counsel did not provide good cause for this late and successive petition. Therefore, the district court did not err in denying the petition as procedurally barred.

Next, Carr argues the district court erred by denying the petition without conducting an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record, that if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046 & n.53, 194 P.3d 1224, 1233-34 & n.53 (2008) (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). The district court concluded Carr's claims did not meet that standard and the record before this court reveals the district court's conclusions in this regard were proper. Therefore, the district court properly denied the petition without conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. William D. Kephart, District Judge
Jabron Duvall Carr
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk