

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONICIA LA-TRESSA BENJAMIN,
Appellant,
vs.
DWIGHT NEVEN, WARDEN,
Respondent.

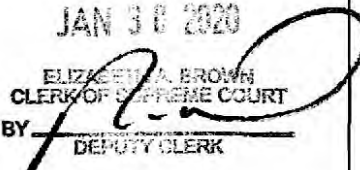
No. 78733-COA

RONICIA LA-TRESSA BENJAMIN,
Appellant,
vs.
DWIGHT NEVEN, WARDEN,
Respondent.

No. 78734-COA

FILED

JAN 30 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ronicia La-Tressa Benjamin appeals from district court orders dismissing postconviction petitions for a writ of habeas corpus. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

On December 24, 2018, Benjamin filed identical petitions in district court case numbers CR06-1649 (Docket No. 78733-COA) and CR06-2466 (Docket No. 78734-COA). On January 8, 2019, she filed identical “addendums” to those petitions in both cases. Benjamin filed the petitions more than 11 years after issuance of the remittitur on direct appeal on September 18, 2007. *See Benjamin v. State*, Docket Nos. 49191, 49192 (Order of Affirmance, August 21, 2007). Benjamin’s petitions were therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

Benjamin denied that her petitions were untimely, and she did not allege good cause. However, Benjamin also claimed she only “recently”

learned how to read and write. To the extent Benjamin was claiming her prior illiteracy was good cause, her claim lacked merit. *See Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988); *see Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (holding good cause must be an impediment external to the defense). Further, even if illiteracy were grounds to excuse a procedural bar, a claim of good cause must not itself be untimely, *see Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018). Benjamin did not specify when she became sufficiently literate to seek postconviction relief, and we note she filed motions in pro se more than two years before she filed the instant petitions. We therefore conclude the district court did not err by dismissing Benjamin's petitions as procedurally time barred. *See Berry v. State*, 131 Nev. 957, 967, 363 P.3d 1148, 1154 (2015) (requiring procedurally defaulted petitioners to support claims with specific factual allegations not belied by the record that, if true, would entitle them to relief).

In her informal brief on appeal, Benjamin challenges the computation of time she has served. This claim was not raised below, and we decline to consider it on appeal in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgments of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Barry L. Breslow, District Judge
Ronicia La-Tressa Benjamin
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk