

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

J.D. CALDWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79059-COA

FILED

FEB 19 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

J.D. Caldwell appeals from a district court order dismissing a petition for writ of mandamus and/or prohibition filed on December 12, 2018. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

The district court construed Caldwell's petition as a postconviction petition for a writ of habeas corpus and directed the State to file a response. The State responded that Caldwell's petition was untimely and successive, it asserted that Caldwell had not alleged good cause to overcome the procedural defects, and it pleaded laches. Caldwell filed a "written objection" to the State's response. He argued that the district court erred by construing his petition as a petition for a writ of habeas corpus, his petition was not untimely because there are no time restraints on petitions for a writ of mandamus, and his petition was not successive because it was not a petition for a writ of habeas corpus. He also argued that laches do not apply because his judgment of conviction did not include credit for time served and was therefore invalid. The district court dismissed Caldwell's petition because it was untimely and successive, Caldwell did not assert good cause, and Caldwell did not attempt to rebut the presumption of prejudice to the State.

We conclude the district court erred by construing Caldwell's petition as a postconviction petition for writ of habeas corpus because the district court did not give Caldwell a chance to cure the procedural deficiencies in his petition and did not acknowledge the good cause and laches arguments he made in his "written objection." *See Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014) (requiring district courts to allow petitioners to correct procedural deficiencies when construing motions as postconviction habeas petitions); *see also Miles v. State*, 120 Nev. 383, 385-87, 91 P.3d 588, 589-90 (2004) (recognizing that NRS Chapter 34 does not prohibit the amendment of a petition to cure pleading defects).

However, we will affirm the judgment of the district court if it reached the right result albeit for the wrong reason. *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970). The district court reached the right result by denying Caldwell's petition for writ of mandamus and/or prohibition because he had "a plain, speedy and adequate remedy in the ordinary course of law." NRS 34.170; NRS 34.330. His claim for presentence credit challenged the validity of his judgment of conviction and sentence and should have been raised in a postconviction petition for a writ of habeas corpus. *See Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Joseph Hardy, Jr., District Judge
J.D. Caldwell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk