

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONALD RAY SANDERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79363-COA

FILED

FEB 25 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Donald Ray Sanderson appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 9, 2019. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Sanderson argues the district court erred by denying his petition. In his petition below, Sanderson sought an additional 64 days of credit for time he spent in presentence confinement. The district court found Sanderson had previously raised the same claim in a motion for an amended judgment of conviction and the district court had already addressed and denied the claim on its merits. The district court therefore concluded that Sanderson was not entitled to relief and denied the petition.

We conclude the district court reached the correct result, albeit for the wrong reason. A claim regarding presentence credit is a challenge to the validity of the judgment of conviction and sentence that must be raised either on direct appeal or in the context of a claim of ineffective assistance of counsel raised in a postconviction petition for a writ of habeas corpus that is filed in compliance with the requirements of NRS Chapter 34. *Griffin v. State*, 122 Nev. 737, 744-45, 137 P.3d 1165, 1169-70 (2006).

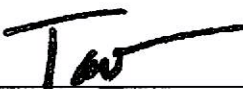
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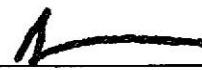
Sanderson filed his petition more than one year after entry of his judgment of conviction.¹ Therefore, his petition was not timely filed. See NRS 34.726(1). Sanderson's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.* "In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules." *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).

In his petition, Sanderson stated he did not raise his claim earlier because he was trying to contact his appointed counsel and he was waiting for the resolution of his motion to amend the judgment of conviction. This was insufficient to demonstrate good cause to overcome the procedural bar. Therefore, the district court should have denied the petition as procedurally barred. See *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). Nevertheless, because the district court reached the correct result, albeit for the wrong reason, we conclude the district court did not err by denying Sanderson's petition. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹Sanderson did not pursue a direct appeal.

cc: Hon. Robert W. Lane, District Judge
Donald Ray Sanderson
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk