

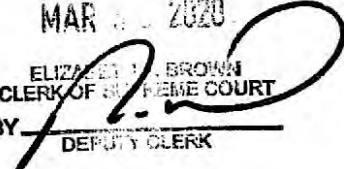
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SERGIO DAVILA HARO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78161-COA

FILED

MAR 11 2020

ELIZABETH J. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Sergio Davila Haro appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on November 21, 2017, and supplemental petition filed on May 8, 2018. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Haro filed his petition more than two years after issuance of the remittitur on direct appeal on June 15, 2015, *see Haro v. State*, Docket No. 66405 (Order of Affirmance and Remand to Correct A Clerical Error, May 19, 2015), as well as the filing of the amended judgment of conviction on August 3, 2015. Haro's petition was therefore untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1).

Haro contended he had good cause to excuse the delay in filing the petition because appellate counsel failed to inform him that his appeal had been resolved or that the remittitur had issued. "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). Haro's claim did not implicate an impediment external to the defense and thus did not constitute good cause.

Haro also contended that Nevada should adopt the federal principle of equitable tolling. The Nevada Supreme Court has repeatedly rejected requests to adopt this principle. *See Brown v. McDaniel*, 130 Nev. 565, 576, 331 P.3d 867, 874 (2014).

For these reasons, we conclude the district court did not err by denying Haro's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Sergio Davila Haro
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The Honorable Jerome T. Tao did not participate in the decision in this matter.