

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARRAL ELLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79307-COA

DARRAL ELLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79308-COA

FILED

APR 27 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Darral Ellis appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed in district court case number A-19-791867-W (Docket No. 79308-COA).¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.


Ellis filed his petition on March 18, 2019, more than one year after entry of the judgment of conviction on January 4, 2018. Thus, Ellis'

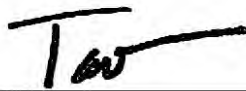
¹Although the petition and order denying the petition were only filed in district court case number A-19-791867, Ellis filed his notice of appeal in both that case and his underlying criminal case, district court case number C-17-323175-1. The notice of appeal filed in C-17-323175-1 is the subject of the appeal in Docket No. 79307-COA. The appeals have been consolidated for disposition.

petition was untimely filed.² See NRS 34.726(1). Ellis' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.*

Ellis appeared to assert he had cause for his delay due to mental health issues. However, Ellis' alleged mental health issues did not constitute an impediment external to the defense that prevented him from filing a timely petition. See *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003). Therefore, we conclude the district court did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²Ellis did not pursue a direct appeal. The district court entered an amended judgment of conviction on July 25, 2018, and an order revoking probation and second amended judgment of conviction, but Ellis did not raise any claims concerning the amended judgments in the instant petition. See *Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

³We have reviewed the document Ellis filed in this court on January 10, 2020, and we conclude no relief is warranted.

cc: Hon. Michael Villani, District Judge
Darral Ellis
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk