

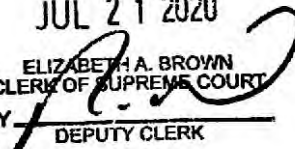
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN CHRISTOPHER GAZLAY,
Appellant,
vs.
SHERIFF JOSEPH LOMBARDO;
CHIEF DEPUTY MEYERS; AND THE
STATE OF NEVADA,
Respondents.

No. 79613-COA

FILED

JUL 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Christopher Gazlay appeals from an order of the district court denying a “petition for a writ of habeas corpus pursuant to NRS 34.500, NRS 34.560(1), Illegal Detention/Restraint and NRS 34.724(2)(a).” Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

In his petition filed on May 24, 2019, and his later-filed amended petition, Gazlay challenged the validity of his judgment of conviction. Due to the nature of the claims raised, the district court properly construed the petition as a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(b) (stating a postconviction petition for a writ of habeas corpus is the exclusive remedy with which to challenge the validity of a judgment of conviction).


Gazlay filed his petition more than one year after the Nevada Supreme Court issued its order granting Gazlay the voluntary dismissal of his direct appeal on May 11, 2018. *Gazlay v. State*, Docket No. 72393 (Order Dismissing Appeal, May 11, 2018). Thus, Gazlay’s petition was untimely filed. See NRS 34.726(1); see also *Gonzales v. State*, 118 Nev. 590, 596 n.18, 53 P.3d 901, 904 n.18 (2002) (recognizing that where a timely direct appeal

is voluntarily dismissed, the one-year time period for filing a postconviction petition for a writ of habeas corpus commences from the date of entry of this court's order granting the motion to voluntarily dismiss the appeal). Gazlay's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1). To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record and, if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046, 194 P.3d 1224, 1233-34 (2008).

Gazlay did not attempt to demonstrate cause for his delay. Therefore, we conclude the district court did not err by denying the petition as procedurally barred without conducting an evidentiary hearing. *See id.*, at 1046 n.53, 194 P.3d at 1234 n.53 (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Steven Christopher Gazlay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk