

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS EDWARD COGGIN,  
Appellant,  
vs.  
PERRY RUSSELL, WARDEN,  
Respondent.

No. 80496-COA

FILED

NOV 13 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Thomas Edward Coggin appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on September 23, 2019. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Coggin claims the district court erred by denying his postconviction habeas petition and motion for the appointment of counsel because they were sent to the district court well before the statutory deadline and they were returned only because he failed to include a completed and signed affirmation. In support of his claim, Coggin attached a return notice in which the district court acknowledged that it was “in receipt of your letter received September 4, 2019.”

Even assuming the return notice pertained to the instant petition and not to some letter, we conclude Coggin is not entitled to relief. His petition was untimely because it was received by the district court more than one year after the judgment of conviction was entered on August 29, 2018.<sup>1</sup> See NRS 34.726(1); *Gonzales v. State*, 118 Nev. 590, 595, 53 P.3d 901, 904 (2002). His petition did not challenge the proceedings leading to


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<sup>1</sup>Coggin did not pursue a direct appeal.

the amendment of his judgment of conviction; therefore, the entry of the amended judgment of conviction did not reset the statutory period for filing a petition. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004). And, because his petition was procedurally barred, the district court did not abuse its discretion by declining to appoint postconviction counsel. *See NRS 34.750(1)*. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Egan K. Walker, District Judge  
Thomas Edward Coggin  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>2</sup>Although the district court erred by finding the statutory period began to run after the amended judgment of conviction was entered, *see Sullivan*, 120 Nev. at 541, 96 P.3d at 764, we conclude it reached the right result by finding that the petition was procedurally barred, *see Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Having concluded that Coggin is not entitled to relief, we deny his request for appointment of postconviction counsel.