

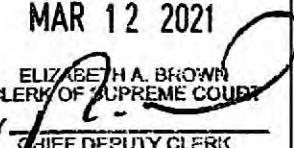
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID JOSEPH CAMERON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81394-COA

FILED

MAR 12 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

David Joseph Cameron appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

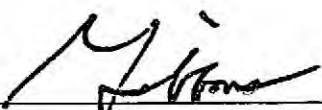
Cameron filed his petition on October 11, 2019, more than one year after entry of the judgment of conviction on July 20, 2018.¹ Thus, Cameron's petition was untimely filed. See NRS 34.726(1). Cameron's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice, *see id.*, or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015).

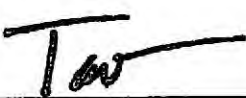
In his petition, Cameron claimed the procedural time bar should not apply because he was actually innocent of the deadly weapon

¹Cameron did not pursue a direct appeal. The district court also entered a corrected judgment of conviction on July 26, 2018, to correct a clerical error, but Cameron did not raise any claims concerning the corrected judgment in the instant petition. See *Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

enhancement. Cameron contended he used a toy gun during the commission of the crimes and not a real firearm. Cameron also asserted his trial-level counsel was ineffective for failing to investigate whether the toy gun would actually meet the statutory definition of a deadly weapon. Cameron did not demonstrate actual innocence because he failed to show that “it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence.” *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); see also *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001), *abrogated on other grounds by Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018). We therefore conclude the district court did not err by dismissing Cameron’s petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Lynne K. Simons, District Judge
David Joseph Cameron
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk