

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAVERN CHARLES FASTHORSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82440-COA

FILED

SEP 24 2021

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

ORDER OF AFFIRMANCE

Lavern Charles Fasthorse appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on November 6, 2019. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.


Fasthorse filed his petition more than one year after issuance of the remittitur on direct appeal on May 8, 2018. *See Fasthorse v. State*, Docket No. 72306-COA (Order of Affirmance, April 11, 2018). Thus, Fasthorse's petition was untimely filed. *See* NRS 34.726(1). Fasthorse's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

To the extent Fasthorse alleged he had good cause because the courts lacked subject matter jurisdiction and his actions constituted civil rather than criminal offenses, Fasthorse was not entitled to relief. Fasthorse's claim did not implicate the jurisdiction of the courts. *See* Nev. Const. art. 6, § 6(1); NRS 171.010; *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). Moreover, Fasthorse's claims were always

available to be raised. Because Fasthorse failed to state why he was unable to raise these claims in a timely filed postconviction petition, they did not constitute good cause to excuse the procedural bars. *See Hathaway v. State*, 119 Nev. 248, 253, 71 P.3d 503, 506 (2003) (“[A] claim or allegation that was reasonably available to the petitioner during the statutory time period would not constitute good cause to excuse the delay.”). Therefore, we conclude the district court did not err by denying Fasthorse’s petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Lavern Charles Fasthorse
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk