


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDMUNDO ANTONIO ZUNIGA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82790-COA

FILED

SEP 24 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Edmundo Antonio Zuniga appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on November 10, 2020. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

In his petition, Zuniga claimed that, because his judgment of conviction does not contain the name of the victim to whom he owes restitution, his sentence and judgment are unconstitutional and the Nevada Department of Corrections (NDOC) should be prohibited from removing money from his inmate account to satisfy the restitution imposed in his judgment of conviction.¹ Zuniga filed his petition nearly 14 years after entry

¹Zuniga styled his pleading as a petition for a writ of prohibition. Because the foundation of his complaint was a challenge to the validity of his judgment of conviction, we conclude the district court did not err by construing it as a postconviction petition for a writ of habeas corpus. See

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of the judgment of conviction on December 15, 2006.² Zuniga's petition was untimely filed and, thus, procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1). Zuniga did not attempt to demonstrate good cause. We therefore conclude the district court did not err by denying Zuniga's petition.

On appeal, Zuniga claims the district court erred by failing to appoint counsel. The appointment of counsel in this matter was discretionary. *See* NRS 34.750(1). When deciding whether to appoint counsel, the district court may consider factors, including whether the issues presented are difficult, whether the petitioner is unable to comprehend the proceedings, or whether counsel is necessary to proceed with discovery. *Id.*; *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). The issues Zuniga presented were not difficult, he was able to comprehend the proceedings, and counsel was not necessary to proceed with discovery. For these reasons, we cannot conclude the district court abused


NRS 34.724(2)(b) (providing that a postconviction petition for a writ of habeas corpus is the exclusive remedy to challenge the validity of a conviction or sentence). To the extent Zuniga is not challenging the validity of his guilty plea, his challenge to NDOC's removal of money from his inmate account is a civil matter not appropriately raised in his criminal or postconviction cases.

²Zuniga did not file a direct appeal.

its discretion by denying the motion for the appointment of counsel.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Barry L. Breslow, District Judge
Edmundo Antonio Zuniga
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk