

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MANUEL JOSE SERRANO-LERMA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83034-COA

**FILED**

**DEC 16 2021**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Manuel Jose Serrano-Lerma appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 18, 2021. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Serrano-Lerma filed his petition nearly two and a half years after issuance of the remittitur on direct appeal on September 19, 2018. *See Serrano-Lerma v. State*, No. 73981-COA, 2018 WL 4191216 (Nev. Ct. App. Aug. 24, 2018) (Order of Affirmance). Thus, Serrano-Lerma's petition was untimely filed. *See* NRS 34.726(1). Serrano-Lerma's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Serrano-Lerma claimed he had good cause for filing an untimely petition because his counsel, the State, and the district court failed to inform him that his direct appeal from his judgment of conviction had been decided. Serrano-Lerma failed to support his claim with specific facts that, if true, would entitle him to relief. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). He did not allege when he learned that his direct appeal was final, nor did he argue that he filed his petition

within a reasonable time of discovering that his appeal was final. Therefore, we conclude the district court did not err by denying the petition as procedurally barred.

Serrano-Lerma claims on appeal that the district court erred by denying his petition without first conducting an evidentiary hearing on the substantive claims raised in his petition. A district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars. *Rubio v. State*, 124 Nev. 1032, 1046, 194 P.3d 1224, 1233-34 (2008). Because Serrano-Lerma could not overcome the procedural bar, we conclude the district court did not err by denying his petition without first conducting an evidentiary hearing on the substantive claims raised in his petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Michael Villani, District Judge  
Manuel Jose Serrano-Lerma  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk