

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARCUS JEROME BLACKWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85545-COA

FILED

MAR 24 2023

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

ORDER AFFIRMING IN PART AND DISMISSING IN PART

Marcus Jerome Blackwell appeals from orders of the district court denying a postconviction petition for a writ of habeas corpus filed on August 29, 2018, and a motion to correct illegal sentence filed on May 29, 2019. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge. *Postconviction petition for a writ of habeas corpus*

Blackwell filed his petition more than nine years after entry of the judgment of conviction on March 20, 2009.¹ Thus, Blackwell's petition was untimely filed. *See* NRS 34.726(1). Moreover, Blackwell's petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² *See* NRS 34.810(2). Blackwell's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

In his petition below, Blackwell did not allege good cause to overcome the procedural bars. He appears to argue several good-cause claims for the first time on appeal, and we decline to consider these good-

¹No direct appeal was taken.


²*See Blackwell v. State*, No. 71125-COA, 2017 WL 2735743 (Nev. Ct. App. June 14, 2017) (Order of Affirmance).

cause claims in the first instance. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999). Accordingly, we conclude the district court did not err by denying the petition as procedurally barred.


Motion to correct illegal sentence

The court's review of this portion of Blackwell's appeal reveals a jurisdictional defect. Specifically, the district court entered its order denying Blackwell's May 29, 2019, motion on August 6, 2019. Blackwell did not file the notice of appeal, however, until October 18, 2022, well after the expiration of the 30-day appeal period prescribed by NRAP 4(b). *See Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) (explaining that an untimely notice of appeal fails to vest jurisdiction in the appellate courts), *overruled on other grounds by Rippo v. State*, 134 Nev. 411, 426 n.18, 423 P.3d 1084, 1100 n.18 (2018). Accordingly, this court lacks jurisdiction to consider this portion of Blackwell's appeal, and we

ORDER the judgments of the district court AFFIRMED IN PART AND DISMISSED IN PART.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Ronald J. Israel, District Judge
Marcus Jerome Blackwell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk