

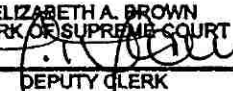
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH N. RICCI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85496-COA

FILED

JUN 22 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joseph N. Ricci appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 17, 2022. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Ricci filed his petition more than one year after issuance of the remittitur on direct appeal on February 2, 2021. *See Ricci v. State*, No. 80292-COA, 2021 WL 91099 (Nev. Ct. App. Jan. 8, 2021) (Order of Affirmance). Thus, Ricci's petition was untimely filed. *See* NRS 34.726(1). Ricci's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Ricci appears to argue the district court erred by denying his petition as procedurally barred because it was filed only 15 days late. However, the one-year deadline provided by NRS 34.726(1) is strictly construed. *See Gonzales v. State*, 118 Nev. 590, 593-96, 53 P.3d 901, 902-04 (2002). Therefore, we conclude Ricci is not entitled to relief based on this claim.

Ricci also argues he has good cause because counsel, and not Ricci, was at fault for failing to timely file the petition due to a calendaring

error. Ricci failed to demonstrate an impediment external to the defense prevented him from timely filing his petition. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003); *see also Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. 61, 67-68, 412 P.3d 56, 61 (2018) (discussing when a client is responsible for the omissions of his attorney acting within the scope of the attorney's authority). Therefore, we conclude the district court did not err by denying Ricci's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Westbrook


_____, Sr.J.
Silver

cc: Hon. Jacqueline M. Bluth, District Judge
Zaman & Trippiedi, PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The Honorable Abbi Silver, Senior Justice, participated in the decision of this matter under a general order of assignment.