

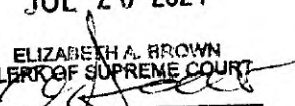
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JONATHAN ORTIZ,  
Appellant,  
vs.  
THE STATE OF NEVADA; AND  
WILLIAM HUTCHINGS, WARDEN,  
Respondents.

No. 86709-COA

FILED

JUL 26 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jonathan Ortiz appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on May 10, 2021, and a supplemental petition filed on August 30, 2021. Third Judicial District Court, Lyon County; John Schlegelmilch, Judge.

Ortiz filed his petition more than one year after entry of the judgment of conviction on February 23, 2020. Thus, Ortiz's petition was untimely filed. *See* NRS 34.726(1). Ortiz's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

First, Ortiz claimed that he had good cause because counsel did not inform him of his right to appeal or his right to file a postconviction petition. The district court held an evidentiary hearing on this claim and found that counsel notified Ortiz of his appeal and postconviction remedies and timelines, both in person and by letter. This finding is supported by the record. At the hearing, trial counsel testified that he specifically discussed Ortiz's right to appeal and his postconviction remedies. Further, trial counsel produced a letter that he sent to Ortiz that detailed Ortiz's

appeal and postconviction remedies. Therefore, we conclude the district court did not err by denying this good-cause claim.


Second, Ortiz claimed counsel never sent him a copy of the judgment of conviction. The district court found that Ortiz did receive the judgment of conviction or it was mailed to him, that Ortiz and counsel were in contact after the judgment was filed, and that Ortiz never informed counsel he did not receive a copy of the judgment. These findings are supported by the record. Further, Ortiz did not testify at the hearing; therefore, he failed to support his claim that he did not receive a copy of the judgment of conviction. Thus, we conclude the district court did not err by denying this good-cause claim.

Third, Ortiz claimed that he had good cause because the COVID-19 restrictions in place at the prison hampered his ability to file a timely postconviction petition. Ortiz also claimed that he had good cause because the copy machine at the prison did not work for two weeks. The district court found that, despite being given an opportunity at an evidentiary hearing, Ortiz failed to support this claim with evidence or testimony. This finding is supported by the record.


“[A]n inmate cannot establish relevant actual injury simply by establishing that his prison’s law library or legal assistance program is subpar in some theoretical sense.” *Lewis v. Casey*, 518 U.S. 343, 351 (1996). Rather, a prisoner must “demonstrate that the alleged shortcomings in the library or legal assistance program hindered his efforts to pursue a legal claim.” *Id.* Ortiz was given an opportunity to demonstrate how COVID-19 restrictions and/or a broken copy machine hampered his ability to timely file his petition, but he failed to do so. Therefore, we conclude that the district court did not err by denying this good-cause claim. Accordingly, we

conclude that the district court did not err by dismissing the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. John Schlegelmilch, District Judge  
Ristenpart Law  
Attorney General/Carson City  
Lyon County District Attorney  
Third District Court Clerk