


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CALVIN LOUIS HAYNES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87606-COA

FILED

AUG 01 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Calvin Louis Haynes appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 20, 2023. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.


Haynes filed his petition more than four years after entry of the judgment of conviction on March 1, 2019.¹ Thus, Haynes' petition was untimely filed. *See* NRS 34.726(1). Haynes' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice, *see id.*, or a demonstration that he was actually innocent such that the failure to decide his petition on the merits would result in a fundamental miscarriage of justice, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015). A petitioner's good-cause and actual-innocence claims must be supported by specific factual allegations that are not belied by the record and, if true, would entitle the petitioner to have their claims decided on the merits. *Id.* at 967, 363 P.3d at 1154-55.

¹Haynes did not appeal from the judgment of conviction.

Haynes' allegation of good cause and actual innocence was limited to his "claim of innocen[c]e and good cause and prejudice" and his contention that the victim made up the allegations against him. The district court concluded this bare allegation did not satisfy Haynes' burden of demonstrating good cause to overcome the procedural bar, and we agree. Additionally, Haynes did not satisfy his burden of demonstrating a fundamental miscarriage of justice sufficient to overcome the procedural bar. *See id.* at 966, 363 P.3d at 1154 (stating a colorable showing of actual innocence requires the petitioner to demonstrate "that it is more likely than not that no reasonable juror would have convicted him in the light of . . . new evidence" (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995))). Therefore, we conclude that the district court did not err by denying Haynes' petition as procedurally barred.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

²In the notice of appeal, Haynes indicates that he also appeals from the district court's denial of a motion to appoint counsel. The record does not show a motion to appoint counsel related to the instant postconviction habeas petition. The record also does not show a completed Affidavit in Support of Request to Proceed in Forma Pauperis. *See* NRS 34.735 (outlining the form for a postconviction habeas petition and instructing a petitioner that such an affidavit must be completed if the petitioner wants an attorney appointed). We conclude the district court did not err by not considering Haynes' purported request for the appointment of counsel as to the instant postconviction habeas petition.

cc: Hon. Tierra Danielle Jones, District Judge
Calvin Louis Haynes
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk