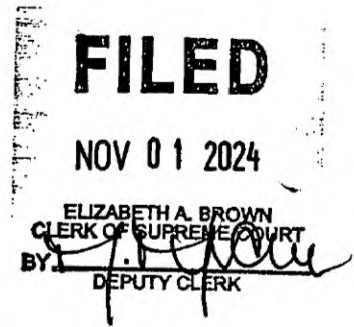


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEROY HALL MCCOY,
Appellant,
vs.
WILLIAM GITTERE, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 88423-COA



ORDER OF AFFIRMANCE

Leroy Hall McCoy appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on November 9, 2023. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

McCoy filed his petition more than three years after issuance of the remittitur on direct appeal on November 25, 2019. *See McCoy v. State*, No. 76447-COA, 2019 WL 5680910 (Nev. Ct. App. Oct. 31, 2019) (Order of Affirmance). Thus, McCoy's petition was untimely filed. *See* NRS 34.726(1). Moreover, McCoy's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits.¹ *See* NRS 34.810(3).² McCoy's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(4).

¹*See McCoy v. State*, No. 82587-COA, 2021 WL 4704986 (Nev. Ct. App. Oct. 7, 2021) (Order of Affirmance).

²The subsections within NRS 34.810 were recently renumbered. We note the substance of the subsections cited herein was not altered. *See* A.B. 49, 82d Leg. (Nev. 2023).

McCoy did not allege that he had good cause to excuse the procedural bars in his petition below, and he does not argue good cause on appeal. Rather, McCoy appears to reargue the merits of his underlying claims. "Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory." *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). Thus, absent a demonstration of good cause, a procedurally barred postconviction habeas petition is subject to dismissal even if it raises potentially meritorious claims. Because McCoy failed to allege good cause to excuse the procedural bars, we conclude the district court did not err by denying the petition.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

³To the extent McCoy raises claims on appeal that were not raised in his petition below, we decline to consider any such claims in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

cc: Hon. Monica Trujillo, District Judge
Leroy Hall McCoy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk