


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AARON GUERRERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88899-COA

FILED

DEC 24 2024

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

ORDER OF AFFIRMANCE

Aaron Guerrero appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 12, 2024. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Guerrero argues the district court erred by denying his petition without holding an evidentiary hearing. Guerrero filed his petition more than one year after entry of the judgment of conviction on October 21, 2022.¹ Thus, Guerrero's petition was untimely filed. *See* NRS 34.726(1). Guerrero's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* "In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules." *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). To warrant an evidentiary hearing, a petitioner's good-cause 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

¹Guerrero did not file a direct appeal from his judgment of conviction.

claims decided on the merits. *See Berry v. State*, 131 Nev. 957, 967, 363 P.3d 1148, 1154-55 (2015).

In his petition, Guerrero contended he had cause for the delay because the facts of his petition were not discovered until December of 2023.² Guerrero did not allege that an impediment external to the defense prevented him from timely filing his petition, and Guerrero's claims relied on facts that were available to him during the one-year period for filing a timely postconviction habeas petition. Therefore, Guerrero failed to demonstrate good cause to overcome the procedural time bar, and we conclude the district court did not err by denying the petition as procedurally barred without holding an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

²On appeal, Guerrero argues the procedural time bar should not apply since his counsel had been instructed to file a postconviction habeas petition and Guerrero had every reason to believe the petition had been filed. This argument was not made in the district court, and we decline to consider it on appeal in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

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