

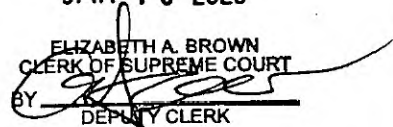
IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN ROBERT HOBBS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 87607

FILED

JAN 16 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. Appellant Brian Robert Hobbs argues that the district court erred in denying the petition after an evidentiary hearing as procedurally barred. We affirm.

Hobbs filed the petition eight years after remittitur issued on direct appeal from the judgment of conviction. *Hobbs v. State*, No. 61988, 2013 WL 3231737 (Nev. June 12, 2013) (Order of Affirmance). Thus, the petition was untimely filed. See NRS 34.726(1). Accordingly, Hobbs' petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(a), (4). Good cause may be demonstrated by a showing that the factual or legal basis for a claim was not reasonably available to be raised in a timely petition. *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).

Hobbs argues that this court's decision in *Gonzales v. State*, 137 Nev. 398, 492 P.3d 556 (2021), provides good cause to excuse the procedural bar because he could not argue that counsel provided ineffective assistance at sentencing until after that decision issued. Hobbs is mistaken; *Gonzales*

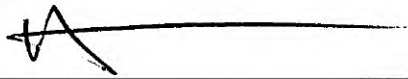
did not create new law. *Gonzales* instead clarified existing law. 137 Nev. at 403, 492 P.3d at 562 (“In sum, we explicitly hold today what has been implicit in our caselaw for decades.”). Hobbs thus could have timely asserted ineffective assistance of counsel at sentencing. Insofar as Hobbs maintains that he did not learn that a postconviction claim could be raised until after *Gonzales*, ignorance of the law is not an impediment external to the defense and does not provide good cause. See *Phelps v. Dir., Nev. Dep’t of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding that a petitioner’s mental handicap and poor legal assistance from inmate law clerks did not establish good cause), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003); see also *Rasberry v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006) (holding “that a pro se petitioner’s lack of legal sophistication is not, by itself, an extraordinary circumstance warranting equitable tolling”).

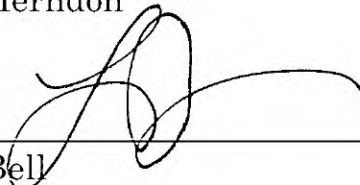
To the extent that Hobbs suggests that ineffective assistance of postconviction counsel provides good cause, we disagree. While Hobbs asserts that he unsuccessfully tried to contact counsel to pursue postconviction remedies after the judgment of conviction was affirmed on direct appeal, Hobbs was not entitled to the effective assistance of postconviction counsel in a noncapital case. See *Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014) (concluding that claims of ineffective assistance of postconviction counsel in noncapital cases do not constitute good cause for a successive petition because there is no entitlement to appointed counsel).

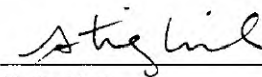
We conclude that the district court correctly applied the

mandatory procedural bars. *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 233, 112 P.3d 1070, 1074, 1075 (2005). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Herndon

  
\_\_\_\_\_, J.  
Bell

  
\_\_\_\_\_, J.  
Stiglich

cc: Hon. Connie J. Steinheimer, District Judge  
Oldenburg Law Office  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk