

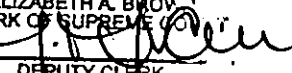
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88990-COA

FILED

JAN 31 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert White appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on June 11, 2024. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

White filed his petition more than 24 years after entry of the judgment of conviction on October 1, 1999.¹ Thus, White's petition was untimely filed. *See* NRS 34.726(1). White'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). “An impediment external to the defense may be demonstrated by a showing that the factual or legal basis for a claim was not reasonably available to counsel, or that some

¹White did not appeal his judgment of conviction.

interference by officials, made compliance impracticable.” *Id.* (internal quotation marks omitted).

As cause for the delay, White cited his recent discovery of the concurrence in *Vasquez v. State*, No. 79409-COA, 2020 WL 4696206 (Nev. Ct. App., Aug. 12, 2020) (Order Vacating Judgment and Remanding) (Tao, J., concurring), questioning the validity of the Division of Parole and Probation’s sentencing recommendation process. *Vasquez* is an unpublished disposition; it does not establish mandatory precedent. See NRAP 36(c)(2). Therefore, White failed to demonstrate that the legal basis for his claims was not reasonably available until this court’s decision in *Vasquez*.

Furthermore, White did not file the instant petition until nearly four years after *Vasquez* was decided and, thus, failed to demonstrate good cause for the entire length of the delay. See *Hathaway*, 119 Nev. at 252, 71 P.3d at 506. White insisted that he had not learned of the decision until recently, but his ignorance of *Vasquez* did not constitute an impediment external to the defense so as to overcome the procedural bar. See *Phelps v. Dir., Nev. Dep’t. of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding a petitioner’s claim of organic brain damage, borderline mental disability, and reliance on the assistance of an inmate law clerk unschooled in the law did not constitute good cause for the filing of a procedurally barred postconviction habeas petition), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676,

681 (2003). Because the district court did not err in denying the petition as procedurally barred, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Scott N. Freeman, District Judge
Robert Lewis White
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk