

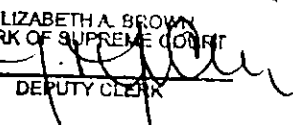
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VENESHIA LANETTE OLIVER, A/K/A  
VANESHIA OLIVER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88742-COA

FILED

MAR 24 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Veneshia Lanette Oliver appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 7, 2024. Eighth Judicial District Court, Clark County; Crystal Eller, Judge.

Oliver argues the district court erred by denying her petition as procedurally barred without conducting an evidentiary hearing. Oliver filed her petition more than one year after issuance of the remittitur on direct appeal from the judgment of conviction on September 7, 2022,<sup>1</sup> and the entry of the amended judgment of conviction on January 23, 2023. Thus, Oliver's petition was untimely filed. *See* NRS 34.726(1). Oliver's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id*; *see also Gonzales v. State*, 118 Nev. 590, 593-96, 53 P.3d 901, 902-04 (2002) (strictly construing the one-year deadline imposed in NRS 34.726(1) and concluding a petition filed days after the one-year deadline was untimely). To warrant an evidentiary

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<sup>1</sup>*See Oliver v. State*, No. 83276, 2022 WL 3336031 (Nev. Aug. 11, 2022) (Order Affirming in part, Vacating in part and Remanding).

hearing, a petitioner's claims to overcome the procedural bar 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. *See Berry v. State*, 131 Nev. 957, 967, 363 P.3d 1148, 1154-55 (2015).

On appeal, Oliver contends she is actually innocent such that a fundamental miscarriage of justice would result were her claims not decided on the merits. She also appears to contend she has good cause to overcome the procedural bar because appellate counsel was ineffective. These claims were not made in the district court, and we decline to consider them on appeal in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

Oliver also appears to contend she had good cause because she was not appointed postconviction counsel. Oliver was not entitled to the assistance of postconviction counsel in a noncapital case. *See Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014). Thus, to the extent she alleges the lack of appointed postconviction counsel constitutes good cause to overcome the procedural bar, we conclude she is not entitled to relief based on this claim. For the foregoing reasons, we conclude the district court did not err by denying Oliver's petition as procedurally barred without conducting an evidentiary hearing.

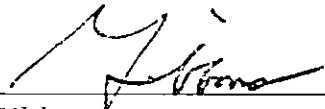
To the extent Oliver challenges the district court's denial of her request for the appointment of postconviction counsel, we conclude she is not entitled to relief. The appointment of counsel in this matter was discretionary. *See* NRS 34.750(1). When deciding whether to appoint counsel, the district court may consider factors, including whether the issues presented are difficult, whether the petitioner is unable to comprehend the proceedings, or whether counsel is necessary to proceed


with discovery. *Id.*: *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). Here, the district court found that the issues in this matter were not difficult, Oliver was able to comprehend the proceedings, and discovery with the aid of counsel was not necessary. For these reasons, the district court denied the motion to appoint counsel. The record supports the decision of the district court, and we conclude the district court did not abuse its discretion by denying the motion for the appointment of counsel.

Finally, Oliver appears to raise additional claims for the first time on appeal. Because Oliver did not raise these claims below, we decline to consider them for the first time on appeal. *See Wade*, 105 Nev. at 209 n.3, 772 P.2d at 1293 n.3. Therefore, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Crystal Eller, District Judge  
Veneshia Lanette Oliver  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk