

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GARY WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88848-COA

FILED

MAR 24 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Gary Walker appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 11, 2024. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Walker filed his petition more than one year after issuance of the remittitur on direct appeal on November 1, 2022.¹ *See Walker v. State*, No. 84343-COA, 2022 WL 6272098 (Nev. Ct. App. Oct. 7, 2022) (Order Affirming in Part, Reversing in Part and Remanding). Thus, Walker's petition was untimely filed. *See* NRS 34.726(1). Walker's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Walker contends the district court erred by denying his petition as procedurally barred because he mailed his petition on February 18, 2024, 11 months after he was resentenced on February 28, 2023.² Neither

¹The district court entered an amended judgment of conviction on March 7, 2023.

²On direct appeal, this court concluded Walker's sentence for voluntary manslaughter was illegal, reversed that portion of the judgment

Walker's resentencing nor entry of the amended judgment of conviction restarted the one-year time period for filing a postconviction habeas petition. *See Sullivan v. State*, 120 Nev. 537, 540-41, 96 P.3d 761, 764 (2004) (stating an absurdity would result if amending a judgment of conviction restarted the one-year time period for filing a postconviction habeas petition because "[a] judgment of conviction may be amended *at any time* to correct a clerical error or to correct an illegal sentence"). And Walker did not allege in his petition or on appeal that the amended judgment of conviction provided good cause for his untimely petition, and none of his claims in the instant petition relate to the amendment to the judgment of conviction. *See id.* at 541, 96 P.3d at 764. Walker thus fails to demonstrate his petition was timely filed or good cause to excuse the procedural time bar. Therefore, we conclude the district court did not err by denying the petition as procedurally barred.³ *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory

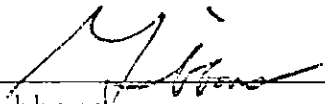
of conviction, and remanded the matter for resentencing. *See Walker*, No. 84343-COA, 2022 WL 6272098, at *1.


³Having concluded the district court did not err by denying Walker's petition as procedurally barred, we further conclude that the district court did not err by declining to appoint counsel or hold an evidentiary hearing. *See* NRS 34.750(1) (stating the district court may appoint counsel "[i]f the court is satisfied that the allegation of indigency is true and the petition is not dismissed summarily"); *see also Rubio v. State*, 124 Nev. 1032, 1046 n.53, 194 P.3d 1224, 1234 n.53 (2008) (providing that a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars).

procedural default rules to post-conviction habeas petitions is mandatory.”).
Accordingly,⁴ we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge
Gary Walker
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁴To the extent Walker raises other arguments not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief.