

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOY WINSTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90400-COA

FILED

SEP 03 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Malissa S. Miller*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Joy Winston appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on January 2, 2025. Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge.

Winston filed her petition more than one year after entry of the judgment of conviction on October 25, 2023.¹ Thus, Winston's petition was untimely filed. *See* NRS 34.726(1). Winston'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

¹Winston did not pursue a direct appeal. In addition, the district court filed an order for revocation of probation and amended judgment of conviction on March 28, 2024, but entry of the amended judgment of conviction did not provide cause for Winston's delay because the claims she raised in the instant petition arose out of the proceedings involving her initial judgment of conviction and could have been raised before the judgment of conviction was amended. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

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

On appeal, Winston challenges the district court’s decision to deny her petition as procedurally barred. In her petition, Winston claimed she had cause for her delay because she has a learning disability. Winston also contended she recently discovered information that led her to believe her convictions of assault with a deadly weapon and battery constituting domestic violence violated her rights against double jeopardy because they arose from the same incident.

Winston’s learning disability did not constitute an impediment external to the defense. *See Phelps v. Nev. Dep’t of Prisons*, 101 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding a petitioner’s claim of organic brain damage, borderline mental disability, and reliance on assistance of inmate law clerk unschooled in the law did not constitute good cause for the filing of a procedurally barred postconviction petition), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003). Moreover, Winston’s challenge to her convictions was reasonably available to have been raised in a timely filed petition, and Winston did not demonstrate an impediment external to the defense prevented her from raising it in a timely manner. *See Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506 (explaining an allegation of good cause “sufficiently explain[s] why a petition was filed beyond the statutory time period” and “a claim or allegation that was reasonably available to the petitioner during the statutory time period would not constitute good cause to excuse the delay”).

Therefore, we conclude the district court did not err by denying Winston's petition as procedurally time barred. Accordingly, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Jennifer L. Schwartz, District Judge
Joy Winston
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk