



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE LUIS CORDOVA A/K/A MARIO
RODRIGUEZ,
Appellant,
vs.
JOHN HENLEY, IN HIS OFFICIAL
CAPACITY AS WARDEN OF THE
NORTHERN NEVADA
CORRECTIONAL CENTER AND THE
STATE OF NEVADA,
Respondents.

No. 90728-COA

ORDER OF AFFIRMANCE

Jose Luis Cordova appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 15, 2024. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

Cordova filed his petition more than 16 years after entry of the judgment of conviction on April 23, 2008.¹ Thus, Cordova's petition was untimely filed. *See* NRS 34.726(1). Cordova's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* To demonstrate good cause to overcome the procedural bars, a petitioner must offer a legal excuse by showing “that an impediment external to the defense prevented him . . . 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 . . . or that some interference by officials made

¹Cordova did not appeal from his judgment of conviction.

compliance impracticable.” *Id.* (internal quotation marks and punctuation omitted). A petitioner is entitled to an evidentiary hearing on a good cause claim if it is “supported by specific facts not belied by the record, which if true, would entitle him to relief.” *Id.* at 254-55, 71 P.3d at 507-08. Further, because the State specifically pleaded laches, Cordova was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

Cordova argues the district court erred by denying his good-cause claim without first conducting an evidentiary hearing. In his petition, Cordova alleged he had good cause to overcome the procedural time bar because he is mentally ill. He argued he has hallucinations and, while he can be stabilized with medications, he is still mentally ill. He contended that being mentally ill is an impediment external to the defense.

Cordova failed to demonstrate his mental illness was an impediment external to the defense.² 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); *see also Jones v. State*, No. 68562, 2016 WL 3406600 (Nev. June 17, 2016) (Order of Affirmance) (concluding that mental illness is not an impediment external to the defense). Moreover, he failed to demonstrate his mental illness prevented him from filing a postconviction habeas petition for the

²We are unconvinced by Cordova’s attempt to distinguish the mental disability discussion in *Phelps* from his mental illness.

entire length of his delay. Cordova admitted he is stabilized when taking his medications, and he did not allege he was not taking his medications during the entire duration of the delay. Further, Cordova started filing motions in the district court in 2020. Thus, he had the ability to access the courts from at least 2020. Therefore, we conclude the district court did not err by denying Cordova's petition as procedurally time barred without first conducting an evidentiary hearing.

Cordova also argues the district court erred by denying his petition as barred by the doctrine of laches. Cordova argued below that the State failed to demonstrate it would be prejudiced, either in its ability to retry Cordova or in its ability to respond to the petition. However, because more than five years elapsed between the filing of the judgment of conviction and the filing of the petition, the burden was on Cordova to rebut the presumption of prejudice to the State in retrying Cordova and in responding to the petition. See NRS 34.800(2). And Cordova failed to allege specific facts to rebut those presumptions. Therefore, we conclude the district court did not err by denying the petition as barred by the doctrine of laches without first conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Monica Trujillo, District Judge
Ornoz & Ericsson, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk