



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARION MUHAMMAD-COLEMAN,
Appellant,
vs.
RENEE BAKER, WARDEN, AND THE
STATE OF NEVADA,
Respondents.

No. 91527-COA

ORDER OF AFFIRMANCE

Darion Muhammad-Coleman appeals from a district court order denying a “petition for a writ of habeas corpus to dismiss all charges with prejudice per the grand jury indictment in NRS 172.241, 172.095(1)(d)” filed on July 14, 2025. Eighth Judicial District Court, Clark County; Hon. Tierra Danielle Jones, Chief Judge.

The district court construed the petition as a postconviction petition for a writ of habeas corpus and denied the petition as procedurally barred and barred by statutory laches. In his petition, Muhammad-Coleman argued the State never gave him *Marcum*¹ notice prior to the grand jury proceedings. Given that this claim challenged the validity of Muhammad-Coleman’s judgment of conviction or sentence, we conclude the district court did not abuse its discretion by construing Muhammad-Coleman’s petition as a

¹*Sheriff v. Marcum*, 105 Nev. 824, 783 P.2d 1389 (1989), *superseded in part by statute as stated in McNamara v. State*, 132 Nev. 606, 619, 377 P.3d 106, 115 (2016).

postconviction habeas petition.² See NRS 34.724(2)(b) (stating a postconviction habeas petition “[c]omprehends and takes the place of all other common-law, statutory or other remedies which have been available for challenging the validity of the judgment of conviction or sentence, and must be used exclusively in place of them”).

Muhammad-Coleman filed his petition more than seven years after issuance of the remittitur on direct appeal on April 10, 2018. Thus, Muhammad-Coleman’s petition was untimely filed. See NRS 34.726(1). Muhammad-Coleman’s petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.* Further, because the State specifically pleaded laches, Muhammad-Coleman was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

Muhammad-Coleman contended trial counsel failed to inform him that the State was required to provide him notice prior to the grand jury proceedings. To the extent this claim may be construed as a good cause claim

²One day after filing his petition, Muhammad-Coleman filed an amended petition, arguing that he filed his July 14, 2025, petition pursuant to NRS 34.360. We conclude the district court was not required to consider the amended petition pursuant to NRS 34.750(5) (stating that “[n]o further pleadings may be filed except as ordered by the court”). Further, to the extent Muhammad-Coleman was trying to file a petition for a writ of habeas corpus pursuant to NRS 34.360, Muhammad-Coleman’s claim regarding *Marcum* notice was not within the scope of such a petition. See NRS 34.360 (providing that a person “may prosecute a writ of habeas corpus to inquire into the cause of [his] imprisonment or restraint”). And the cause of Muhammad-Coleman’s imprisonment, as reflected in the record before this court, is an August 29, 2018, amended judgment of conviction of first-degree murder with the use of a deadly weapon, battery with the use of a deadly weapon, conspiracy to violate the uniform controlled substances act, and attempt to possess a controlled substance.

to overcome the procedural time bar, this claim of ineffective assistance of trial counsel would not constitute good cause because the claim itself was procedurally barred. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003) (holding that “in order to constitute adequate cause, the ineffective assistance of counsel claim itself must not be procedurally defaulted”). Thus, we conclude Muhammad-Coleman failed to overcome the procedural time bar. Further, we conclude Muhammad-Coleman failed to overcome the presumption of prejudice to the State. Therefore, we conclude the district court did not err by denying the petition as procedurally time barred and barred by laches.

Muhammad-Coleman filed a motion for the appointment of postconviction counsel. The appointment of counsel in this matter was discretionary. *See* NRS 34.750(1). We conclude the district court did not abuse its discretion by not appointing counsel because the issues presented were not difficult, Muhammad-Coleman was able to comprehend the proceedings, and discovery with the aid of counsel was not necessary. *Id.*; *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Bulla, C.J.


Gibbons, J.


Westbrook, J.

cc: Hon. Tierra Danielle Jones, Chief Judge
Attorney General/Carson City
Clark County District Attorney
Darion Muhammad-Coleman
Eighth District Court Clerk