

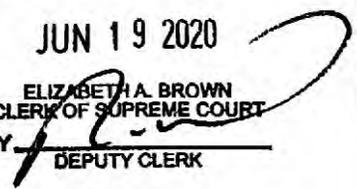
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIS GODOREDO PIMENTEL, III,
Appellant,
vs.
RENEE BAKER; AND THE STATE OF
NEVADA.
Respondents.

No. 79674-COA

FILED

JUN 19 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Luis Godoredo Pimentel, III, appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

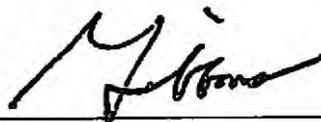
Pimentel filed his petition on April 22, 2019, more than one year after issuance of the remittitur on direct appeal on January 17, 2018. *See Pimentel v. State*, 133 Nev. 218, 396 P.3d 759 (2017). Thus, Pimentel's petition was untimely filed. *See* NRS 34.726(1). Pimentel's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Pimentel claimed he had cause for the delay because his appellate counsel told him not to file his habeas petition until after the Nevada Supreme Court issued a decision regarding a petition for rehearing of his direct appeal. Pimentel waited more than a year after issuance of the order denying his petition for rehearing to file his postconviction petition, *see Pimentel v. State*, Docket No. 68710 (Order Denying Rehearing, December 19, 2017), and Pimentel did not demonstrate an impediment external to the defense prevented him from timely filing his petition, *see Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). To the

extent Pimentel asserted ineffective assistance of appellate counsel provided good cause, Pimentel's claim was not raised in a timely manner and procedurally barred claims of ineffective assistance of counsel cannot constitute cause for raising additional claims. *See id.* Therefore, we conclude the district court did not err by denying the petition as procedurally barred.¹

Next, Pimentel appears to argue the district court erred by denying the petition without appointing postconviction counsel. NRS 34.750(1) provides for the discretionary appointment of postconviction counsel if the petitioner is indigent and the petition is not summarily dismissed. Here, the district court found that the issues in this matter were not difficult and the petition was procedurally barred without good cause and prejudice shown to overcome the procedural bars. Because the petition was dismissed as procedurally barred, we conclude the district court did not abuse its discretion by denying the motion for the appointment of counsel. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Gibbons



_____, J.
Tao



_____, J.
Bulla

¹Pimentel also appears to argue he had cause for his delay because he lacks education and legal knowledge. However, Pimentel did not raise this good-cause claim in his petition and we decline to consider it in the first instance on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

cc. Hon. Carolyn Ellsworth, District Judge
Luis Godoredo Pimentel, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk