

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIE TERRY CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80630-COA

FILED

SEP 18 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

WILLIE TERRY CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80631-COA

ORDER OF AFFIRMANCE

Willie Terry Carter appeals from district court orders denying a postconviction petition for a writ of habeas corpus filed in district court case number A-19-804110-W (Docket No. 80631-COA) on October 17, 2019, and a motion to correct an illegal sentence filed in district court case number C-13-292507-2 (Docket No. 80630-COA) on December 16, 2019.¹ These cases were consolidated on appeal. *See* NRAP 3(b). Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Postconviction petition

¹The district court's order denying Carter's motion to correct an illegal sentence was filed in district court case number A-19-804110-W.

Carter filed his petition more than 5 years after entry of the judgment of conviction on January 16, 2014.² Thus, Carter's petition was untimely filed. *See* NRS 34.726(1). Carter's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

On appeal, Carter argues he has good cause to overcome the procedural time bar because his claim was based on new evidence and his counsel was ineffective. Carter did not raise any good cause claims in his petition below, and therefore, we decline to consider these claims for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Therefore, we conclude the district court did not err by denying the petition as procedurally time barred.

Motion to correct an illegal sentence

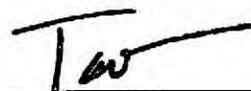
In his motion, Carter first claimed that the deadly weapon enhancements for his robbery convictions were illegal pursuant to NRS 193.165(4) because a deadly weapon was a necessary element of robbery with the use of a deadly weapon. Carter failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A deadly weapon is not a necessary element of robbery, *see* NRS 200.380(1); therefore, Carter's sentence was properly enhanced pursuant to NRS 193.165(1). Accordingly, we conclude the district court did not err by denying this claim.

²Carter did not pursue a direct appeal.

Carter also argued the deadly weapon enhancement for his attempted murder conviction was illegal. However, Carter did not receive a deadly weapon enhancement for his attempted murder conviction. Therefore, he failed to demonstrate his sentence was illegal or that the district court erred by denying this claim.

Having concluded Carter is not entitled to relief, we
ORDER the judgments of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mary Kay Holthus, District Judge
Willie Terry Carter
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk