

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARION MUHAMMAD-COLEMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82915-COA

FILED
AUG 18 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *E. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Darion Muhammad-Coleman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Muhammad-Coleman filed his petition on December 6, 2019, more than one year after issuance of the remittitur on direct appeal on July 30, 2018. *See Muhammad-Coleman*, No. 72867, 2018 WL 3302828 (Nev. July 3, 2018) (Order of Affirmance).¹ 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.* “We give deference to the district court's factual findings regarding good cause, but we will review the court's

¹The district court entered an amended judgment of conviction on August 29, 2018, to clarify that Muhammad-Coleman had been convicted of first-degree murder with the use of a deadly weapon. Entry of the amended judgment of conviction did not provide good cause because all of the claims Muhammad-Coleman raised in the instant petition arose out of the proceedings involving his initial judgment of conviction. *See Sullivan v. State*, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

application of the law to those facts de novo.” *State v. Huebler*, 128 Nev. 192, 197, 275 P.3d 91, 95 (2012).

The district court determined that Muhammad-Coleman had good cause and reviewed the merits of his claims. The district court did not provide factual findings for its good-cause determination but rather stated that its determination allowed for an otherwise untimely petition to be considered on the merits. “[G]ood cause’ means a ‘substantial reason; one that affords a legal excuse.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Muhammad-Coleman raised several claims of good cause.

First, Muhammad-Coleman claimed that he had cause for his delay because the basis for several of his claims did not exist until after he had completed an investigation into those claims. A good-cause claim must be raised within one year of its becoming available. *Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018). Muhammad-Coleman’s underlying claims were reasonably available to have been raised during the timely filing period for a postconviction petition, and Muhammad-Coleman did not allege that an impediment external to the defense prevented him from raising his claims in a timely filed petition. *See Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506. Accordingly, Muhammad-Coleman was not entitled to relief based on this good-cause claim.

Second, Muhammad-Coleman claimed that he had cause for his delay because the State agreed to allow him to file his petition after expiration of the timely filing deadline. The Nevada Supreme Court has previously stated “that the parties in a post-conviction habeas proceeding cannot stipulate to disregard the statutory procedural default rules. We direct all counsel in the future not to enter into stipulations like the one in this case and direct the district courts not to adopt such stipulations.” *State*

v. Haberstroh, 119 Nev. 173, 181, 69 P.3d 676, 682 (2003). Accordingly, Muhammad-Coleman was not entitled to relief based on this good-cause claim.²

Third, Muhammad-Coleman appeared to claim that he had cause for his delay because he wished to exhaust state remedies. Exhaustion of state remedies in order to seek federal review is insufficient to demonstrate good cause. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), *superseded by statute on other grounds as stated in Huebler*, 128 Nev. at 197 n.2, 275 P.3d at 95 n.2. Accordingly, Muhammad-Coleman was not entitled to relief based on this good-cause claim.

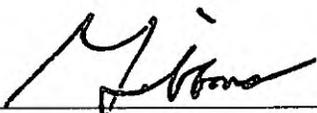
Fourth, Muhammad-Coleman argued that he had cause for his delay because his appellate counsel did not raise his underlying claims on direct appeal. "In order to constitute adequate cause, the ineffective assistance of counsel claim itself must not be procedurally defaulted." *Hathaway*, 119 Nev. at 252, 71 P.3d at 506. Muhammad-Coleman's ineffective-assistance-of-counsel claim was itself procedurally barred because he raised it in an untimely manner. Muhammad-Coleman's underlying claim of ineffective assistance of counsel was reasonably available to have been raised during the timely filing period for a postconviction petition, and Muhammad-Coleman did not demonstrate an impediment external to the defense prevented him from raising it in a

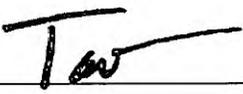
²In his reply brief on appeal, Muhammad-Coleman relies heavily on the improper stipulation to file an untimely petition. We note that even were a stipulation to overcome procedural bars permitted, Muhammad-Coleman filed the stipulation after the one-year timely filing deadline had passed, and he did not file his petition until more than two months after the parties' agreed-upon filing date.

timely manner. *See id.* at 252-53, 71 P.3d at 506. Accordingly, Muhammad-Coleman was not entitled to relief based on this good-cause claim.

For the foregoing reasons, Muhammad-Coleman did not meet his burden to demonstrate cause for his delay. *See* NRS 34.726(1). Therefore, we conclude that the district court erred by finding Muhammad-Coleman demonstrated good cause and by reviewing his underlying claims on the merits. Nevertheless, the district court properly concluded that Muhammad-Coleman was not entitled to relief, and therefore, we affirm. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (“If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Zaman & Trippiedi, PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk