

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT REX CHAPPELL,
Appellant,
vs.
WARDEN, LOVELOCK
CORRECTIONAL CENTER, LENARD
VARE,
Respondent.

No. 48010

FILED

DEC 08 2006

WINNETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Robert Rex Chappell's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

On April 10, 1997, the district court convicted Chappell, pursuant to a guilty plea, of four counts of first-degree arson. The district court sentenced Chappell to serve consecutive prison terms of 60 to 180 months for each count, and it ordered Chappell to pay \$2,263,170.00 in restitution. Chappell did not file a direct appeal. However, he did file a timely post-conviction petition for a writ of habeas corpus. The district court denied Chappell's petition and we affirmed the district court's order on appeal.¹

On September 7, 2005, Chappell filed a second post-conviction petition for a writ of habeas corpus. The district court appointed counsel, and counsel supplemented the petition. The State moved to dismiss the


¹Chappell v. Warden, Docket No. 35585 (Order Dismissing Appeal, May 25, 2000).

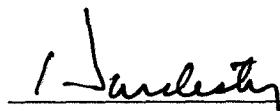
petition, and the district court subsequently dismissed the petition. This appeal follows.

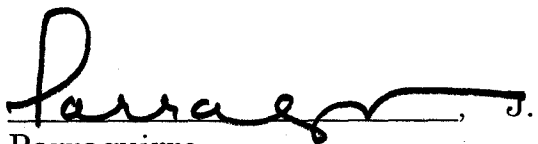
The district court found that Chappell's petition was procedurally barred because it was both untimely and successive, Chappell failed to establish good cause and demonstrate prejudice sufficient to overcome the procedural defects, and Chappell did not establish a claim of actual innocence that might excuse the procedural defects.²

A district court's factual findings are entitled to deference when reviewed on appeal.³ Here, Chappell has not alleged or shown that the district court's findings are not supported by substantial evidence or are clearly wrong. Therefore, he has not demonstrated that the district court erred in dismissing his petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Becker

 _____, J.
Hardesty

 _____, J.
Parraguirre

²See NRS 34.726(1); NRS 34.810(2) & (3); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001) (providing that a colorable showing of actual innocence may excuse a procedural bar).

³See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

cc: Hon. Connie J. Steinheimer, District Judge
John J. Kadlic
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk