

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY GANTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54800

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a document labeled “motions titled by condensed codes-document codes nos. 0031, 0115, 0203, 0125, 0105.”¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Due to the nature of relief sought, we conclude that appellant’s motion was properly construed as a post-conviction petition for a writ of habeas corpus. NRS 34.724(2)(b). Appellant filed the motion on August 11, 2009, more than seven years after the judgment of conviction was entered on June 18, 2002. Thus, appellant’s petition was untimely filed. See NRS 34.726(1). Moreover, appellant’s petition was successive because he previously filed a post-conviction petition on June 10, 2003.² See NRS

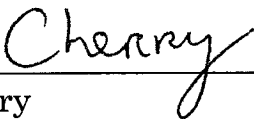
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

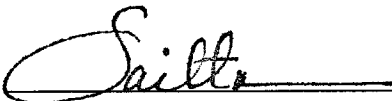
²Appellant did not appeal the district court’s denial of his first post-conviction petition for a writ of habeas corpus.


34.810(2). Further, appellant's petition constituted an abuse of the writ as he raised claims that were new and different from those claims raised in his previous post-conviction petition. See id. Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. See NRS 34.726(1); NRS 34.810(3).

Appellant claimed he had good cause to excuse the delay because the district court moved locations, changed computers, and moved files, and that this caused errors in the litigation of his first petition. Appellant failed to demonstrate his grounds for relief were not reasonably available to be raised in a timely petition. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Anthony Gantt
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk