

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE TYRONE DUNLAP, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54889

**FILED**

JUL 15 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; David Wall, Judge.

Appellant filed his petition on July 1, 2009, more than three years after entry of the judgment of conviction. Thus appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed two post-conviction petitions for writs of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous

---

<sup>1</sup>This 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 Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

petitions.<sup>2</sup> See NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

Appellant first claimed that he had good cause to overcome the procedural bars because of a federal court order staying federal proceedings for appellant to return to state court in order to exhaust his claims. Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects. Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994). Filing a late, successive petition for exhaustion purposes is not good cause because the claims were reasonably available to be raised in a timely petition. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).

Appellant also claimed that he was actually innocent. Appellant failed to demonstrate that it was "more likely than not that no reasonable juror would have convicted him in light of the new evidence." Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Shlup v. Delo, 513 U.S. 298, 327 (1995)); Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); Mazzan v. Warden, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). The evidence that appellant claimed demonstrates his innocence was available to appellant before he pleaded guilty. Therefore, the district

---

<sup>2</sup>Dunlap v. State, Docket Nos. 46944, 47625 (Order of Affirmance, November 28, 2006).

court did not err in denying the petition as procedurally barred.  
Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. David Wall, District Judge  
George Tyrone Dunlap Jr.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

---

<sup>3</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.