


IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES VANCE WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55841

FILED

SEP 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
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.¹ Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant filed his petition on January 26, 2010, more than 11 years after entry of the judgment of conviction on March 9, 1998. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus.² See NRS 34.810(2). To

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 Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²See Williams v. State, Docket No. 33687 (Order of Affirmance, November 20, 2001).

the extent appellant's claims were new and different than the claims raised in his previous petition, appellant's petition constituted an abuse of the writ. 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). Further, because the State specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State. See NRS 34.800(2).

Appellant's attempt to excuse his procedural defects by arguing that the district court lacked subject matter jurisdiction over his original conviction lacked merit. Appellant claimed that the statutes under which he was charged and convicted were unconstitutional, as they did not contain the enacting clause mandated by Article 4, Section 23 of the Nevada Constitution. While the Nevada Revised Statutes (NRS) "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law," the actual laws of Nevada are contained in the Statutes of Nevada. NRS 220.170(3). Each of the acts creating and last amending the statutes at issue, as published in the Statutes of Nevada, begins with the appropriate enacting clause mandated by the Nevada Constitution. 1997 Nev. Stat., ch. 150 at 339, and § 12 at 341 (grand larceny); 1995 Nev. Stat., ch. 443 at 1167, and § 124 at 1215 (burglary). Therefore, the statutes under which appellant was convicted were not unconstitutional for failure to include an enacting clause, indicating that the district court did not lack subject matter jurisdiction over appellant. Appellant further failed to overcome the presumption of

prejudice to the State. Thus, the district court did not err in denying the petition as procedurally barred.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Donald M. Mosley, District Judge
James Vance Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk