

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARNELL LEROY PARRISH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56555

FILED

FEB 09 2011

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

ORDER OF AFFIRMANCE

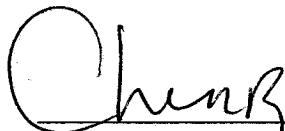
This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant filed his petition on December 29, 2009, over nine years after issuance of the remittitur on direct appeal on March 14, 2000. Parrish v. State, No. 32285 (Order Dismissing Appeal, February 16, 2000). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was also successive because he had previously filed a direct appeal and two post-conviction petitions for a writ of habeas corpus. NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).


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).

Appellant did not attempt to argue to good cause or prejudice. Rather, he argued that his procedural defaults should be overlooked because he is actually innocent such that denying consideration of his substantive claims would result in a fundamental miscarriage of justice. Appellant did not demonstrate actual innocence because he failed to show that "it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence." Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Schlup v. Delo, 513 U.S. 298, 327 (1995)); accord 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). We therefore conclude that the district court did not err in denying appellant's petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Michelle Leavitt, District Judge
Darnell Leroy Parrish
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk