

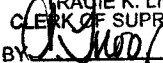
IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN LEWIS WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57179

FILED

MAY 09 2011

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; Douglas W. Herndon, Judge.

Appellant filed his petition on June 7, 2010, four years after issuance of the remittitur on direct appeal on June 21, 2006. White v. State, Docket Nos. 46518, 46521 (Order of Affirmance, May 26, 2006). 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, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition. 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).

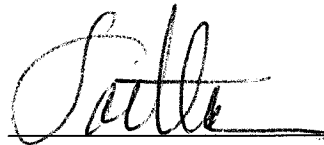
In an attempt to demonstrate good cause, appellant claimed that there was official interference when he filed his previous petition

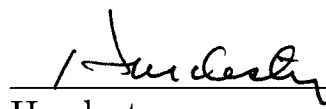
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

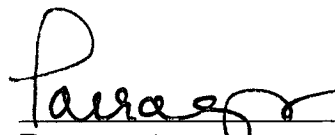
which made it impossible for him to appeal from the denial of his first petition. Specifically, he claimed that the district court clerk filed his notice of appeal on August 3, 2006, the same day that he filed his first petition, which caused him to not be able to appeal his first petition. Appellant failed to demonstrate good cause to overcome the procedural bars because he failed to demonstrate that the filing of the notice of appeal prevented him from appealing from his first petition. The district court denied appellant's first petition on November 21, 2006, and appellant failed to demonstrate why he could not appeal from that order. Therefore, the district court did not err in denying this claim.

Appellant also claimed that he was actually innocent. 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)); see also 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. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
Shawn Lewis White
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk