

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 57220

FILED

NOV 16 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingersoll
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Shawn White's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

White concedes that his petition was both untimely and successive, see NRS 34.726(1); NRS 34.810(2); however, he argues that the district court erred by failing to conduct an evidentiary hearing and denying his petition because his claim of actual innocence was sufficient to overcome the procedural bars. See Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001). The affidavits submitted by White in support of his claims did not establish that he is actually innocent of all charges, including those forgone by the State as part of the plea agreement. See Bousley v. United States, 523 U.S. 614, 623-24 (1998). Therefore, we conclude the district court did not err by dismissing White's petition

without first conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Cannon & Tannery
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk