

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL WILLIAM THOMAS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57389

**FILED**

**JUL 15 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.<sup>1</sup> Fifth Judicial District Court, Mineral County; Robert W. Lane, Judge.

Appellant filed his petition on June 24, 2010, more than four years after issuance of the remittitur on direct appeal on January 17, 2006. See Thomas v. State, Docket No. 43168 (Order of Affirmance, December 20, 2005). 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 to the extent he raised claims new and different from those raised in his previous petition. See NRS 34.810(1)(b)(2); NRS 34.810(2); Thomas v. State, Docket No. 50697 (Order

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

of Affirmance, September 4, 2009). Therefore, appellant's petition was 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).

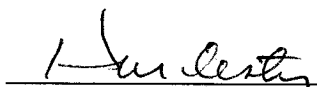
In an attempt to excuse his procedural defects, appellant stated that he needed to exhaust his claims for federal review. Raising claims in a procedurally defective petition for purposes of exhaustion does not amount to good cause as it is not an impediment external to the defense. Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Further, we note that this court has previously considered and rejected appellant's claims that counsel was ineffective for failing to file a pretrial petition for a writ of habeas corpus, counsel was ineffective for failing to request an independent psychological examination, appellant was entitled to a new trial based on newly discovered evidence, and he was denied due process as a result of false evidence presented at trial. Thomas v. State, Docket No. 50697 (Order of Affirmance, September 4, 2009). The doctrine of the law of the case prevents further litigation of these issues and cannot be avoided by a more detailed and precisely focused argument. Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Accordingly, the district court did not err in denying appellant's petition as procedurally barred. Therefore, we

ORDER the judgment of the district court AFFIRMED.

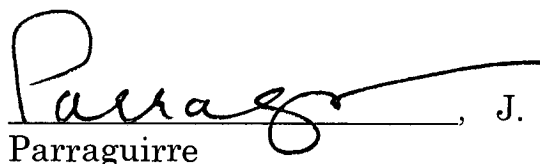


Saitta

J.

  
Hardesty

J.

  
Parraguirre

J.

cc: Hon. Robert W. Lane, District Judge  
Daniel William Thomas  
Attorney General/Carson City  
Mineral County District Attorney  
Mineral County Clerk