

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAIGA HRALIMA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57894

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.¹ Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Appellant filed his petition on August 10, 2010, more than six years after this court's February 24, 2004, issuance of the remittitur from his direct appeal. See Hralim a v. State, Docket No. 41920 (Order of Affirmance, January 27, 2004). Appellant's petition was therefore untimely filed. NRS 34.726(1). Appellant's petition was also an abuse of the writ because he raised claims new and different from those raised in

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).

his previous petitions.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(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 did not attempt to argue 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).

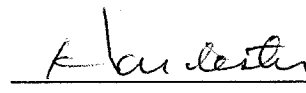
To the extent appellant attempted to overcome his procedural defects by characterizing his petition as a "First Amendment Petition," he failed because he did not demonstrate any unconstitutional prior restraint of his First Amendment rights. NRS 34.185(1). To the extent appellant may have attempted to overcome his procedural defects by claiming that the district court lacked jurisdiction over him, he failed because his claims

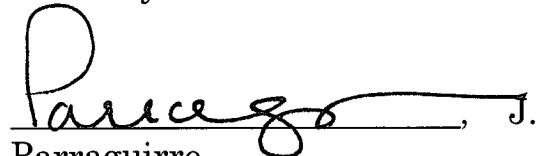
²See Hralima v. State, Docket No. 47928 (Order of Affirmance, February 5, 2007); Hralima v. State, Docket Nos. 50718, 50719 (Order of Affirmance, April 18, 2008).

did not implicate the jurisdiction of the courts. Nev. Const. art. 6, § 6; NRS 171.010. 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.³


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Maiga Hralima
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.