

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM HENRY COLLIER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58991

FILED

MAR 07 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
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; Doug Smith, Judge.

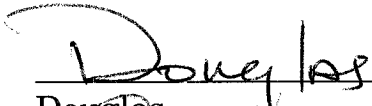
Appellant filed his petition on May 24, 2011, over seven years after issuance of the remittitur on direct appeal on November 12, 2003. Collier v. State, Docket No. 41299 (Order of Affirmance, October 13, 2003). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause and undue prejudice. See id. Moreover, because the State specifically pleaded laches, appellant was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

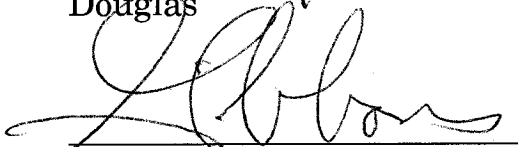
Appellant failed to raise any claims of cause and undue prejudice on the face of his petition. To the extent his claim about the criminal complaint not being filed could be construed as a claim of good cause, this claim is belied by the record. The criminal complaint was filed in justice court. To the extent that his claim about a potential Brady v.

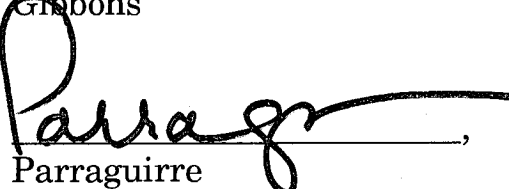
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Maryland, 373 U.S. 83 (1963), violation could be construed as a good cause claim, appellant failed to demonstrate that anything was withheld. Finally, to the extent that appellant raised a claim 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). Therefore, we conclude that the district court did not err in denying appellant's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

²We 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.

cc: Hon. Doug Smith, District Judge
William Henry Collier, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk