

IN THE SUPREME COURT OF THE STATE OF NEVADA

FARRIN HAWKINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59028

FILED

MAR 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a “motion for ineffective assistance of counsel.”¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant filed his motion on July 26, 2011, almost twenty-two years after issuance of the remittitur on direct appeal on August 1, 1989. Hawkins v. State, Docket No. 19272 (Order Dismissing Appeal, July 11, 1989). Thus, appellant’s motion was untimely filed.² See NRS 34.726(1). Moreover, appellant’s motion was successive because he had previously


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).

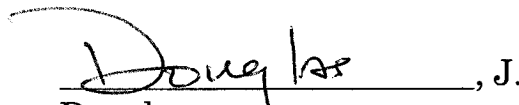
We conclude that the district court did not err in construing the motion to be a post-conviction petition for a writ of habeas corpus because appellant challenged the validity of his judgment of conviction. See NRS 34.724(2)(b).

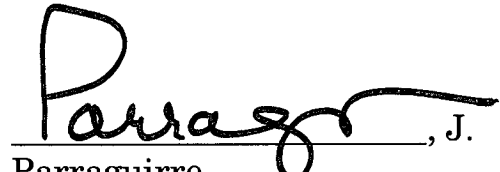
²Even assuming that the deadline for filing a habeas corpus petition commenced on January 1, 1993, the date of the amendments to NRS chapter 34, appellant’s motion was filed more than 18 years after the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, §§ 5, 33, at 75-76, 92; Pellegrini v. State, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).

litigated several post-conviction petitions, and it constituted an abuse of the writ to the extent that he raised claims new and different from those raised in his previous petitions.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's motion 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). Appellant did not attempt to demonstrate good cause for the procedural defects. Thus, we conclude that the district court did not err in denying the motion as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


Gibbons, J.


Douglas, J.


Parraguirre, J.

cc: Hon. Michael Villani, District Judge
Farrin Hawkins
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³Hawkins v. State, Docket No. 39930 (Order of Affirmance, April 17, 2003). Appellant did not appeal from the denial of his first petition for post-conviction relief or from the denial of his first post-conviction petition for a writ of habeas corpus.

⁴We 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.