

IN THE SUPREME COURT OF THE STATE OF NEVADA

COUNTRY JOE STEVENS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60344

FILED

SEP 12 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 dismissing a post-conviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

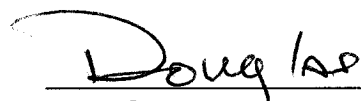
Appellant filed his petition on August 16, 2011, more than 21 years after issuance of the remittitur on direct appeal on January 9, 1990. Stevens v. State, Docket No. 18745 (Order Dismissing Appeal, December 20, 1989). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated two 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 petition.² See NRS 34.810(1)(b)(2); NRS

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).

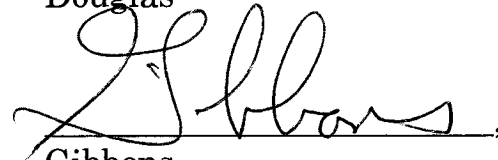
²Stevens v. State, Docket No. 23866 (Order Dismissing Appeal, November 3, 1993). Stevens did not appeal from the denial of his second petition.

34.810(2). 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). Appellant did not attempt to demonstrate good cause to excuse the procedural defects.³ Therefore, we conclude that the district court did not err in dismissing the petition as procedurally barred. Accordingly, we

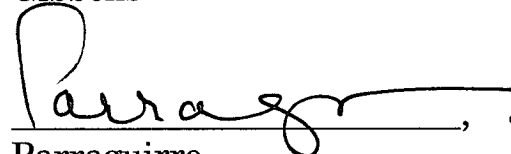
ORDER the judgment of the district court AFFIRMED.⁴

 _____, J.

Douglas

 _____, J.

Gibbons

 _____, J.

Parraguirre

³To the extent that appellant claimed that the procedural bars did not apply because he was seeking relief under NRCP 60, appellant's claim was without merit. Appellant challenged the validity of the judgment of conviction and such a challenge must be raised in a post-conviction petition for a writ of habeas corpus. NRS 34.724(2)(b); NRS 34.780(1).

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.

cc: Hon. Connie J. Steinheimer, District Judge
Country Joe Stevens
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk