

IN THE SUPREME COURT OF THE STATE OF NEVADA

ESAU DOZIER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60781

FILED

JAN 16 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. [Signature]*
DEPUTY CLERK

ESAU DOZIER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60782

ORDER OF AFFIRMANCE

These are proper person appeals from orders of the district court denying motions to correct clerical mistake.¹ Second Judicial District Court, Washoe County; Janet J. Berry, Judge. We elect to consolidate these appeals for disposition. See NRAP 3(b)(2).

Docket No. 60781

Appellant filed his motion on February 21, 2012, more than six years after issuance of the remittitur on direct appeal on February 7,

¹These appeals have been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the records are sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

2006.² Dozier v. State, Docket No. 44972 (Order of Affirmance, January 12, 2006). Thus, appellant's motion was untimely filed. See NRS 34.726(1). Moreover, appellant's motion constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.³ See 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(3). Appellant did not attempt to demonstrate good cause to excuse the procedural bars. Therefore, the district court did not err in denying the motion as procedurally barred.

Docket No. 60782

Appellant filed his motion on February 21, 2012, more than six years after issuance of the remittitur on direct appeal on February 7, 2006.⁴ Dozier v. State, Docket No. 44908 (Order of Affirmance, January 11, 2006). Thus, appellant's motion was untimely filed. See NRS 34.726(1). Moreover, appellant's motion constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.⁵ See NRS 34.810(2). Appellant's motion was procedurally barred

²Due to the nature of the claims raised, the district court construed the motion as a post-conviction petition for a writ of habeas corpus. We conclude that the district court did not err in doing so. NRS 34.724(2)(b).

³Dozier v. State, Docket Nos. 49431 and 49446 (Order of Affirmance, December 28, 2007).

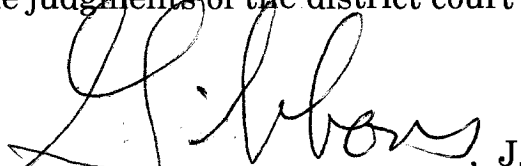
⁴Due to the nature of the claims raised, the district court construed the motion as a post-conviction petition for a writ of habeas corpus. We conclude that the district court did not err in doing so. NRS 34.724(2)(b).


⁵Dozier v. State, Docket Nos. 49431 and 49446 (Order of Affirmance, December 28, 2007).

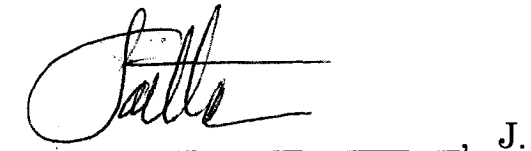
absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

Appellant claimed that the procedural bars do not apply because the deadly weapon enhancement violates the Double Jeopardy Clause and therefore, his sentences were illegal. Appellant asserted that a claim involving double jeopardy is a jurisdictional claim and jurisdictional claims can be raised at any time. This claim was reasonably available to be raised in a timely petition and appellant failed to demonstrate that an impediment external to the defense precluded him from raising this claim in a timely manner. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). This court has already considered and rejected appellant's claim that the district court was without jurisdiction because the deadly weapon enhancement violated the Double Jeopardy Clause. Dozier v. State, Docket Nos. 50794 and 50795 (Order of Affirmance, March 27, 2008). The doctrine of law of the case prevents further litigation of this claim 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). Therefore, the district court did not err in denying appellant's motion as procedurally barred.

Having determined that appellant is not entitled to relief, we
ORDER the judgments of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Janet J. Berry, District Judge
Esau Dozier
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk