

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS RUIZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61296

FILED

APR 09 2013

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a post-conviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellant filed his petition on February 7, 2012, more than three years after issuance of the remittitur on direct appeal on August 8, 2008. Ruiz v. State, Docket No. 48828 (Order Affirming in Part, Vacating in Part, and Remanding, July 14, 2008). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated a post-conviction petition for a writ of habeas corpus, 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 34.810(2). Appellant's

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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²Ruiz v. Warden, Docket No. 57090 (Order of Affirmance, September 14, 2011).

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 claimed that he had good cause because his post-conviction counsel failed to raise the twelve grounds for relief in the prior proceedings. Ineffective assistance of post-conviction counsel would not be good cause in the instant case because the appointment of counsel in the prior post-conviction proceedings was not statutorily or constitutionally required. Crump v. Warden, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); McKague v. Warden, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

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.

cc: Hon. Brent T. Adams, District Judge
Carlos Ruiz
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk