

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW ARTHUR FIELDS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61607

**FILED**

MAY 14 2013

TRAGIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tragie K. Lindeman*  
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.<sup>1</sup> Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant filed his petition on April 11, 2012, more than four years after entry of the judgment of conviction on August 17, 2007. Thus, appellant's petition was untimely filed.<sup>2</sup> See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.<sup>3</sup> See NRS 34.810(2). Appellant's petition was

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<sup>1</sup>This 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).


<sup>2</sup>No direct appeal was taken.


<sup>3</sup>*Fields v. State*, Docket No. 56444 (Order of Affirmance, March 17, 2011).

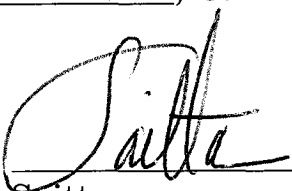
procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

Appellant claimed the procedural bars did not apply because he had been pursuing post-conviction relief in Nevada state court and in federal court since he was convicted. Appellant also asserted that he was exhausting state grounds so that he can proceed in federal court. That appellant filed a previous state petition and filed a petition in federal court did not demonstrate that an impediment external to the defense should excuse the procedural bars. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Further, exhaustion of state remedies in order to seek federal court review was insufficient to demonstrate cause to excuse the delay. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989). Therefore, the district court did not err in dismissing the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

<sup>4</sup>We 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. Janet J. Berry, District Judge  
Matthew Arthur Fields  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk