

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 61769

FILED

JUN 13 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angers
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

Appellant filed his petition on May 18, 2012, more than three years after the filing of his judgment of conviction on March 3, 2009.² Appellant's petition was therefore untimely filed. *See* NRS 34.726(1). Appellant's petition was also an abuse of the writ as he raised claims new and different from those raised in his prior petition.³ NRS 34.810(2). Appellant's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). Appellant's claim that he was now raising these grounds

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).

²No direct appeal was taken.

³*Otero v. State*, Docket No. 57900 (Order Dismissing Appeal, September 15, 2011).

because the federal court deemed them unexhausted did not demonstrate good cause. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003); *Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

cc: Hon. Abbi Silver, District Judge
Carlos Otero
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk