

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 63777 **FILED**

JAN 16 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

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

No. 63778

*ORDER OF AFFIRMANCE (NO. 63777) AND  
ORDER DISMISSING APPEAL (NO. 63778)*

These are proper person appeals from orders denying post-conviction petitions for writs of habeas corpus.<sup>1</sup> Second Judicial District Court, Washoe County; Janet J. Berry, Judge. We elect to consolidate these appeals for disposition. NRAP 3(b).

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<sup>1</sup>These appeals have 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).

*Docket No. 63777*

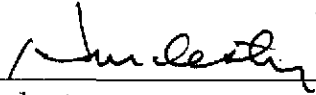
On February 15, 2005, appellant was convicted pursuant to a jury verdict of two counts of robbery with the use of a deadly weapon and burglary in district court case number CR03-1842. This court affirmed the judgment of conviction and sentence on January 11, 2006, and appellant subsequently sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus and other motions. Appellant filed a second post-conviction petition on February 5, 2013, approximately seven years after this court affirmed the judgment of conviction. The petition was untimely under NRS 34.726(1) and successive pursuant to NRS 34.810(1)(b)(2) because he had previously filed a post-conviction petition in 2007. His petition, therefore, was procedurally barred absent a demonstration of good cause and prejudice. *See* NRS 34.726(1); NRS 34.810(3).

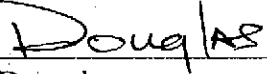
As cause to excuse the procedural default, appellant, relying on *Edwards v. State*, 112 Nev. 704, 918 P.2d 321 (1996), argued that because his post-conviction petition challenged the legality of his sentence, it is not subject to the procedural default rules. However, the application of procedural default rules is mandatory. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 233, 112 P.3d 1070, 1075 (2005); *State v. Haberstroh*, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003). Appellant's good-cause argument lacked merit, and he provided no explanation for the delay in filing his petition. Based upon our review of the record on appeal, we conclude that the district court did not err by denying appellant's petition as procedurally barred.

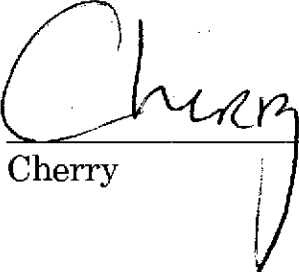
*Docket No. 63778*

The district court's July 9, 2013, order denying appellant's post-conviction petition in district court case number CR03-1842 indicates that appellant filed his petition in that district court case number but also raised claims associated with district court case number CR04-1978, in which appellant was convicted on February 15, 2005, of robbery with the use of a deadly weapon pursuant to a guilty plea. However, it does not appear that appellant filed a post-conviction petition in district court case number CR04-1978, and although the post-conviction petition filed in district court case number CR03-1842 references district court case number CR04-1978, the petition appears to relate solely to district court case number CR03-1842. Because it appears that there is no order in district court case number CR04-1978 from which to appeal, the appeal in Docket No. 63778 is dismissed. Accordingly, we

ORDER the judgment of the district court in Docket No. 63777 AFFIRMED and the appeal in Docket No. 63778 DISMISSED.

  
\_\_\_\_\_, J.  
Hardesty

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

  
\_\_\_\_\_, J.  
Cherry

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