

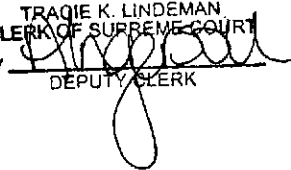
IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN BROOKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63879

FILED

FEB 12 2014

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
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; David B. Barker, Judge.

Appellant filed his petition on February 26, 2013, 21 years after issuance of the remittitur on direct appeal on January 8, 1992. *Brooks v. State*, Docket No. 21722 (Order Dismissing Appeal, December 20, 1991). Thus, appellant's petition was untimely filed.² See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed five post-conviction petitions for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and

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).

²Further, the petition was filed more than twenty years after the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, § 32, at 92.

different from those raised in his previous petitions.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's 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). Moreover, because the State specifically pleaded laches, appellant was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

In an attempt to demonstrate good cause to overcome the procedural bars appellant claimed that he never received the transcripts from when his motion to dismiss counsel and his motion to represent himself on direct appeal were denied. Appellant failed to demonstrate good cause because he failed to show that the transcript was necessary in order to raise the underlying claim that he was denied the right to represent himself. According to his petition, appellant was present when the motions were denied. Even if he was not present, appellant would have known he did not represent himself on appeal. Therefore, this claim could have been raised in a timely petition. Further appellant failed to demonstrate that the denial of his right to self-representation implicated the jurisdiction of the courts.⁴ Nev. Const. art. 6, § 6. Accordingly, the

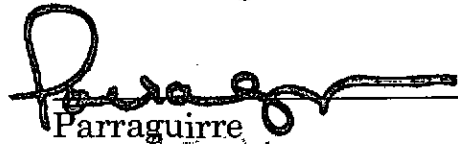
³*Brooks v. State*, Docket No. 48747 (Order of Affirmance, July 3, 2007); *Brooks v. State*, Docket No. 34575 (Order of Affirmance February 22, 2001); *Brooks v. State*, Docket No. 43621 (Order of Affirmance, November 3, 2004); *Brooks v. State*, Docket No. 46807 (Order of Affirmance, July 14, 2006) (construed to be a post-conviction petition); *Brooks v. State*, Docket No. 55775 (Order of Affirmance, September 10, 2010).

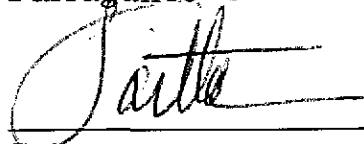
⁴We note that appellant has no constitutional right to represent himself on direct appeal from his judgment of conviction. See *Martinez v. Court of Appeal of California*, 538 U.S. 152 (2000); *Blandino v. State*, 112 Nev. 352, 914 P.2d 624 (1996).

district court did not err in denying the petition as procedurally barred,
and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. David B. Barker, District Judge
Kevin Brooks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk