

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESSE B. GREENBERG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63998

FILED

APR 10 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
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 Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

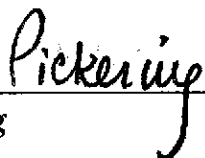
Appellant filed his petition on July 9, 2013, almost seven years after issuance of the remittitur on direct appeal on August 2, 2006. *Greenberg v. State*, Docket No. 45529 (Order of Affirmance, July 6, 2006). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated two post-conviction petitions 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 petitions.² See NRS

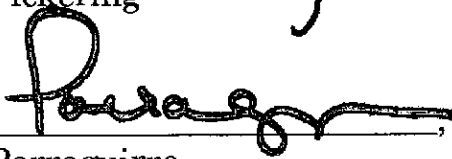
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

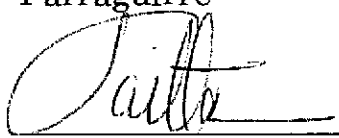
²*Greenberg v. State*, Docket No. 50631 (Order of Affirmance, November 21, 2008); *Greenberg v. State*, Docket No. 61436 (Order of Affirmance, April 9, 2013).

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 the petition filed below, appellant did not attempt to demonstrate good cause or overcome the presumption of prejudice to the State. Thus, we conclude that the district court did not err in denying appellant's petition as procedurally barred and barred by laches. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

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. 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. Valerie Adair, District Judge
Jesse B. Greenberg
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk