

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS CALVIN JAMES FERGUSON
A/K/A THOMAS JAMES FERGUSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64264

FILED

MAR 11 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 of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

Appellant filed his petition on April 9, 2013, more than eight years after entry of the judgment of conviction on January 27, 2005. Thus, appellant's petition was untimely filed. *See* NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated a post-conviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised a claim new and different from the claims raised in his previous petition.² *See* NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. *See* NRS 34.726(1); NRS 34.810(3). Further, because the State

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*See Ferguson v. State*, Docket No. 47093 (Order of Affirmance, September 7, 2006).

specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State. See NRS 34.800(2).

Appellant made no attempt to allege good cause for his procedural defects. To the extent that he claimed that the procedural bars did not apply because the district court did not have jurisdiction to convict him as the laws reproduced in the Nevada Revised Statutes did not contain an enacting clause as required by the Nevada Constitution, this claim is without merit. Appellant's claim did not implicate the jurisdiction of the courts. Nev. Const. art. 6, § 6; NRS 171.010. Moreover, the Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes reproduce those laws as classified, codified, and annotated by the Legislative Counsel. NRS 220.120. Finally, appellant did not overcome the presumption of prejudice to the State. Therefore, we conclude that the district court did not err in denying his petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

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. Jerome T. Tao, District Judge
Thomas Calvin James Ferguson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk