

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY DANIELS MORAGA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64639

FILED

APR 10 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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; Elissa F. Cadish, Judge.

Appellant filed his petition on August 14, 2013, almost eighteen years after issuance of the remittitur on direct appeal on October 24, 1995. *Moraga v. State*, Docket No. 22901 (Order Dismissing Appeal, October 4, 1995). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated several 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 petition.² See

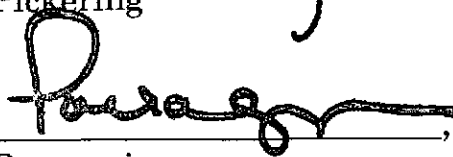
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

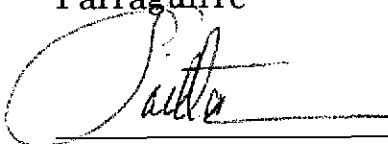
²*Moraga v. State*, Docket Nos. 29321, 32542 (Order Dismissing Appeals, April 20, 1999); *Moraga v. State*, Docket No. 49049 (Order of Affirmance, August 16, 2007); *Moraga v. State*, Docket No. 61734 (Order of Affirmance, July 23, 2013).

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). Appellant made no cogent good cause argument excusing his procedural defaults and failed to overcome the presumption of prejudice to the State. Therefore, we conclude that the district court did not err in denying the 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

cc: Hon. Elissa F. Cadish, District Judge
Roy Daniels Moraga
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³We deny as moot appellant's motion and request to dismiss the appeal without prejudice.