

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNEST DEAN CARPENTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65066

**FILED**

JUN 11 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Youney  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order dismissing a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant filed his petition on May 1, 2013, more than five years after issuance of the remittitur on direct appeal on March 11, 2008. *Carpenter v. State*, Docket No. 49319 (Order of Affirmance, February 13, 2008). 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 to the extent that he raised claims new and different from those raised in his previous petition.<sup>2</sup> See NRS 34.810(2). Appellant's petition was procedurally barred absent a

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<sup>1</sup>This 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).

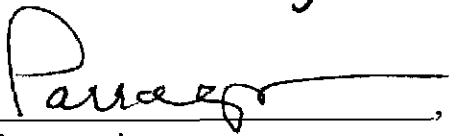
<sup>2</sup>*Carpenter v. State*, Docket No. 54542 (Order of Affirmance, March 17, 2011).

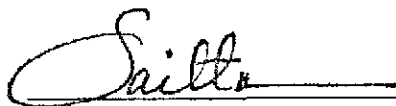
demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

In an attempt to demonstrate good cause, appellant asserted that he was required to exhaust claims for federal review. Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects. *Lozada v. State*, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994). Filing a late, successive petition for exhaustion purposes is not good cause. The claims raised were reasonably available to be raised in a timely petition. *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, we conclude that the district court did not err in dismissing the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Patrick Flanagan, District Judge  
Ernest Dean Carpenter  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk