

IN THE SUPREME COURT OF THE STATE OF NEVADA

ZEL NORMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65334

**FILED**

JUL 22 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 of the district court denying a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant filed his petition on January 16, 2014, nearly seven years after issuance of the remittitur on direct appeal on March 20, 2007. *See Norman v. State*, Docket No. 47548 (Order of Affirmance, February 20, 2007). Thus, appellant's petition was untimely filed. *See* NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed post-conviction petitions for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.<sup>2</sup> *See* NRS 34.810(1)(b)(2); NRS

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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>*Norman v. State*, Docket No. 52297 (Order of Affirmance, April 23, 2009). Appellant's first, timely post-conviction petition for a writ of habeas corpus was filed on March 5, 2008, but no appeal was taken from the denial of that petition.


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 argued that *Martinez v. Ryan*, 566 U.S. \_\_\_, 132 S. Ct. 1309 (2012), provided good cause to overcome his procedural bars. Even assuming without deciding that *Martinez* applies to state habeas corpus proceedings, appellant was still untimely because his petition was not filed within a reasonable time of the publishing of that decision. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Moreover, appellant failed to overcome the presumption of prejudice to the State pursuant to NRS 34.800(2). We therefore conclude that the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

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

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

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

<sup>3</sup>We 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. Michael Villani, District Judge  
Zel Norman  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk