

IN THE SUPREME COURT OF THE STATE OF NEVADA

TROY ANTHONY FOSTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65592

FILED

SEP 18 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Lindeman*
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 Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant filed his petition on February 25, 2014, more than 14 years after this court issued the remittitur from his direct appeal on February 23, 2000. *Foster v. State*, Docket No. 32872 (Order Dismissing Appeal, January 26, 2000). Thus, appellant's petition was untimely filed. *See* NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus. *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Thus, appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. *See* NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

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).

Appellant claimed that the Ninth Circuit Court of Appeals' decision in *Jackson v. Nevada*, 688 F.3d 1091 (9th Cir. 2012), provided good cause to re-argue his claim that he was denied his right to present a complete defense. The *Jackson* decision, however, has since been reversed by the United States Supreme Court, see *Nevada v. Jackson*, ___ U.S. ___, 133 S. Ct. 1990 (2013), and does not stand for any new proposition as to the right to a complete defense. Thus, appellant failed to demonstrate good cause, and we 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.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Janet J. Berry, District Judge
Troy Anthony Foster
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk