

IN THE SUPREME COURT OF THE STATE OF NEVADA

ORLANDO SCOTT MARTIN, JR.,
Appellant,
vs.
BRIAN E. WILLIAMS, WARDEN,
Respondent.

No. 66099

FILED

DEC 11 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.¹ Second Judicial District Court, Washoe County; David A. Hardy, Judge.

Appellant filed his petition on April 2, 2014, more than one year after the remittitur on direct appeal on August 27, 2012. *See Martin v. State*, Docket No. 58534 (Order Affirming in Part and Reversing in Part, April 12, 2012). 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, and it constituted an abuse of the writ as he raised a claim new and different from those raised in his previous petition.² *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition was procedurally barred absent a


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).

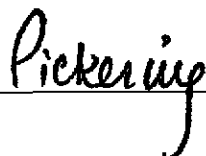
²*See Martin v. Williams*, Docket No. 64944 (Order of Affirmance, June 11, 2014).

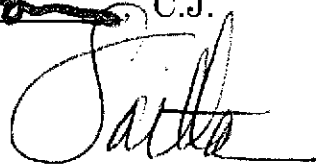
demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Appellant claimed that he had good cause to excuse the procedural bars because the documentation concerning his new claim was previously unavailable to him. Appellant's claim lacked merit. Appellant did not specify the document to which he referred, although it was presumably the sentencing memorandum from which he culled his argument. Appellant failed to demonstrate that an impediment external to the defense prevented him from previously obtaining his own sentencing memorandum. See *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). We therefore conclude that the district court did not err in denying appellant's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Saitta

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. David A. Hardy, District Judge
Orlando Scott Martin, Jr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk