

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SYLVESTER TATUM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66367

FILED

FEB 24 2015

MACIE K. LIDEMAN
CLERK OF SUPREME COURT
BY *M. Wilcap*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Appellant's May 14, 2014, petition was untimely because it was filed more than two years after the Nevada Supreme Court issued the remittitur on direct appeal on November 1, 2011.² See NRS 34.726(1). Appellant's petition was also successive because he had previously filed a post-conviction petition for a writ of habeas corpus.³ See NRS 34.810(2). Consequently, appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

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

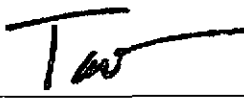
²See *Tatum v. State*, Docket No. 57119 (Order Affirming and Remanding, October 5, 2011).


³See *Tatum v. State*, Docket No. 64394 (Order of Affirmance, June 12, 2014).

Appellant failed to allege any good cause and actual prejudice to overcome the procedural bars. Accordingly, we conclude that the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.⁴


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Carolyn Ellsworth, District Judge
Sylvester Tatum
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁴We have reviewed all documents that appellant has submitted 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.