

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES LEE CLARK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66638

**FILED**

FEB 24 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an order of the district court denying 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 March 24, 2014, more than one year after entry of the judgment of conviction on March 14, 2013.<sup>2</sup> Thus, appellant's petition was untimely filed. See NRS 34.726(1); *Gonzales v. State*, 118 Nev. 590, 593-94, 53 P.3d 901, 902-03 (2002). 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 claims new and different from those raised in his


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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>No direct appeal was taken.

previous petition.<sup>3</sup> See NRS 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(3). Appellant did not attempt to demonstrate good cause. Therefore, the district court did not err in denying the petition.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

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<sup>3</sup>*Clark v. State*, Docket No. 65607 (Order of Affirmance, September 18, 2014).

<sup>4</sup>The district court denied the petition because the appeal from the denial of appellant's previous petition was pending before the Nevada Supreme Court. However, as discussed previously, the petition should have been denied due to application of the procedural bars. See *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). Nevertheless, the district court reached the right result in denying the petition, and therefore, we affirm. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

cc: Hon. Patrick Flanagan, District Judge  
Charles Lee Clark  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk