

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY JAMES BENNETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66701

FILED

FEB 24 2015

FRANCIE 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.¹ Second Judicial District Court, Washoe County; Jerome Polaha, Judge.


Appellant filed his petition on June 27, 2014, nearly 8 years after issuance of the remittitur on direct appeal on October 10, 2006. *Bennett v. State*, Docket Nos. 46913, 46914 (Order of Affirmance, September 12, 2006). 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.² 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).


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 *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²*Bennett v. State*, Docket No. 53993 (Order of Affirmance, April 7, 2010); *Bennett v. State*, Docket No. 62131 (Order of Affirmance, September 17, 2014).

In an attempt to overcome the procedural bars, appellant claimed that the district court did not have lawful jurisdiction to decide or adjudicate his case because his case was improperly removed from justice court before a preliminary hearing was held. Appellant failed to demonstrate good cause or prejudice. Appellant's claim did not implicate the jurisdiction of the district court. See Nev. Const. art. 6, § 6; NRS 171.010. Further, appellant's case was not improperly removed from justice court. The State elected to charge appellant by way of grand jury rather than go through the preliminary hearing process. Therefore, the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

³We 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.

cc: Hon. Jerome Polaha, District Judge
Gregory James Bennett
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk