


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY J. BURRIOLA,  
Appellant,  
vs.  
RENEE BAKER, WARDEN,  
Respondent.

No. 66713

FILED

MAR 18 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Appellant filed his petition on October 9, 2013. 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 previous petition.<sup>2</sup> See NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.810(3).

Appellant claimed that he could demonstrate good cause and prejudice to overcome the procedural bars because of newly discovered

---


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

<sup>2</sup>*Burriola v. Baca*, Docket No. 62552 (Order of Affirmance, September 18, 2013).

evidence. He claimed that he found out on January 16, 2013, that his property was returned to him and that the victim in his disciplinary proceedings had been disciplined regarding actions she took against appellant.

The district court concluded that appellant demonstrated good cause because he attempted to present these claims during his first petition but the district court handling his first petition did not allow him to supplement his petition. However, the district court also concluded that appellant failed to demonstrate prejudice because he failed to demonstrate that this new evidence would have made a difference regarding the finding that some evidence existed that appellant committed the violations. Substantial evidence supports the decision of the district court. *See Riley v. State*, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). Therefore, the district court did not err in dismissing the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Steve L. Dobrescu, District Judge  
Anthony J. Burriola  
Attorney General/Carson City  
White Pine County Clerk