

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VICTOR TAGLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67179

FILED

APR 14 2015

TRACIE K. LINDEN
CLERK OF SUPREME COURT
BY *[Signature]*
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; Valerie Adair, Judge.

Appellant Victor Tagle's June 5, 2014, petition was untimely because it was filed more than two years after his judgment of conviction was entered on January 19, 2012. See NRS 34.726(1). Tagle's petition was also successive because he had previously filed a post-conviction petition for a writ of habeas corpus.² See NRS 34.810(2). Consequently, Tagle's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

In an attempt to demonstrate good cause for his untimely and successive petition, Tagle claimed that a prison law library supervisor had


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


²See *Tagle v. State*, Docket No. 62145 (Order of Affirmance, July 23, 2013).

15-900394

intercepted, opened, and destroyed his mail for the past three years. However, because the factual bases for each of Tagle's claims were reasonably available before Tagle filed his first petition, we conclude that he has failed to demonstrate good cause to excuse his procedural default. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (explaining that good cause may be demonstrated when the factual basis for a claim was not reasonably available to be raised in a timely petition). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Valerie Adair, District Judge
Victor Tagle
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk