

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDDIE RENCHER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67459

FILED

JUN 16 2015

MACIE K. LINDFMAN
CLERK OF SUPREME COURT
BY *M. Wolf*
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

Appellant Eddie Rencher, Jr. filed his petition on November 21, 2014, nearly 6 years after issuance of the remittitur on direct appeal on December 1, 2009. *Rencher, Jr. v. State*, Docket No. 52355 (Order of Affirmance, November 5, 2009). Thus, Rencher's petition was untimely filed. See NRS 34.726(1). Moreover, Rencher's petition was successive because he had previously filed a post-conviction petition for a writ of

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude 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).

15-9000654

habeas corpus.² See NRS 34.810(1)(b)(2); NRS 34.810(2). Rencher's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).


Relying in part on *Martinez v. Ryan*, 566 U.S. ___, 132 S. Ct. 1309 (2012), Rencher argued ineffective assistance of post-conviction counsel excused his procedural defects. Ineffective assistance of post-conviction counsel would not be good cause in the instant case because the appointment of counsel in the prior post-conviction proceedings was not statutorily or constitutionally required. *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Further, the Nevada Supreme Court has held *Martinez* does not apply to Nevada's statutory post-conviction procedures, see *Brown v. McDaniel*, 130 Nev. ___, ___, 331 P.3d 867, 871-72 (2014), and thus, *Martinez* does not provide good cause for this late and successive petition.

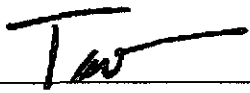
Rencher also appeared to claim he had good cause to excuse his procedural defects because he needed to exhaust his state remedies. Rencher's argument is without merit. The Nevada Supreme Court has held that pursuing federal relief does not provide good cause for filing a


²*Rencher, Jr. v. State*, Docket No. 59289 (Order of Affirmance, June 13, 2012).

late petition. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), *abrogated by statute on other grounds as recognized by State v. Huebler*, 128 Nev. at ___ n.2, 275 P.3d at 95 n.2. Therefore, the district court did not err in denying Rencher's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. William D. Kephart, District Judge
Eddie Rencher, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk