

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EVAN RATCLIFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69631

FILED

JUN 22 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Evan Ratcliff claims the district court erred by denying his petition as procedurally barred because his petition challenged the constitutionality of the law and the jurisdiction of the courts. Ratcliff's assertion is without merit because his claims challenged the validity of his judgment of conviction and therefore the petition was subject to the procedural bars.² See NRS 34.720(1); NRS 34.724(1).

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

²Ratcliff's claims did not implicate the jurisdiction of the courts. Nev. Const. ar. 6, § 6; NRS 171.010. We note the Statutes of Nevada contain the laws with the enacting clauses required by the constitution.

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Ratcliff filed his petition on December 4, 2015, more than eight years after entry of the judgment of conviction on March 28, 2007.³ Thus, Ratcliff's petition was untimely filed. *See* NRS 34.726(1). Moreover, Ratcliff's petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.⁴ *See* NRS 34.810(2). Ratcliff's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). Moreover, because the State specifically pleaded laches, Ratcliff was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

Ratcliff claimed he had good cause to excuse the delay because an inmate law clerk recently provided him with research that revealed the Nevada Revised Statutes do not meet constitutional mandates and are invalid because they do not have an enactment clause and there is no evidence they were introduced in triplicate. Because these claims themselves lack merit, the district court determined they did not establish good cause to overcome the procedural bars. The district court further

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The Nevada Revised Statutes simply reproduce those laws as classified, codified, and annotated by the Legislative Counsel. NRS 220.120.

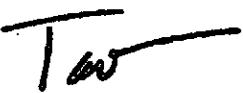
³Ratcliff did not file a direct appeal.


⁴*Ratcliff v. State*, Docket No. 51079 (Order of Affirmance, August 4, 2008).

concluded Ratcliff failed to overcome the rebuttable presumption of prejudice and the petition was barred by laches. We conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.⁵


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas w. Herndon, District Judge
Evan Ratcliff
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁵We further conclude the district court did not err by denying Ratcliff's motion for the appointment of counsel and request for an evidentiary hearing. See NRS 34.750; NRS 34.770(2).