

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALLEN KOERSCHNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69907

**FILED**

JUL 27 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

**ORDER OF AFFIRMANCE**

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Allen Koerschner filed his petition on October 8, 2015, more than 14 years after issuance of the remittitur on direct appeal on May 23, 2001. *Koerschner v. State*, 116 Nev. 1111, 13 P.3d 451 (2000). Thus, Koerschner's petition was untimely filed. *See* NRS 34.726(1). Moreover, Koerschner's petition was successive because he had previously filed two postconviction petitions for a writ of habeas corpus.<sup>2</sup> *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Koerschner'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). Moreover, because the

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


<sup>2</sup>*Koerschner v. State*, Docket No. 54718 (Order of Affirmance, February 4, 2010); *Koerschner v. State*, Docket No. 43313 (Order of Affirmance, July 25, 2006).

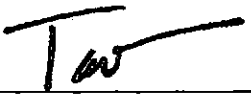
State specifically pleaded laches, Koerschner was required to overcome the rebuttable presumption of prejudice. See NRS 34.800(2).


Koerschner argues the procedural bars do not apply because the district court lacked jurisdiction over the trial and sentencing. Koerschner asserts the district court lacked jurisdiction because a criminal complaint was never filed in the justice court, which is demonstrated by the lack of a file-stamp bearing the date and time the document was filed. This court and the Nevada Supreme Court have already concluded that Koerschner's assertion the district court did not have jurisdiction over his case lacks merit. *Koerschner v. State*, Docket No. 67512 (Order of Affirmance, July 14, 2015); *Koerschner v. State*, Docket No. 54718 (Order of Affirmance, February 4, 2010). The doctrine of the law of the case prevents further litigation of this issue and "cannot be avoided by a more detailed and precisely focused argument." See *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

In addition, Koerschner failed to overcome the presumption of prejudice to the State. Therefore, we conclude the district court did not err in denying the petition as procedurally barred and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Elissa F. Cadish, District Judge  
Allen Koerschner  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk