

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVE COLEMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69570

FILED

SEP 21 2016

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

ORDER OF AFFIRMANCE

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

Appellant Steve Coleman filed his petition on September 16, 2015, more than 13 years after entry of the judgment of conviction on April 30, 2002.² Thus, Coleman's petition was untimely filed. See NRS 34.726(1). Moreover, Coleman's petition was successive because he had

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

²Coleman's direct appeal was dismissed for lack of jurisdiction because the notice of appeal was not timely filed. *Coleman v. State*, Docket No. 39776 (Order Dismissing Appeal, July 25, 2002). Accordingly, the proper date to measure timeliness is the entry of the judgment of conviction. See *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).


previously filed two postconviction petitions 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 petitions.³ See NRS 34.810(2). Coleman'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, Coleman was required to overcome the rebuttable presumption of prejudice. See NRS 34.800(2).

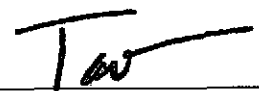
Coleman argues he has good cause to excuse the untimely filing because he recently discovered the district court judge failed to provide a bond prior to taking office. Coleman therefore asserts the district court judge lacked subject matter jurisdiction over his case. This claim does not implicate the jurisdiction of the courts, and therefore, does not overcome the procedural bars. See Nev. Const. art. 6, § 6; NRS 171.010. In addition, Coleman does not demonstrate an impediment external to the defense prevented him from raising this claim in a timely manner. See *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Moreover, Coleman fails to demonstrate the district court judge was required to provide a bond prior to taking office. See NRS 282.010(1) (stating elected officials shall provide an official bond "when such a bond shall be required"). Finally, Coleman did not overcome the rebuttable

³*Coleman v. State*, Docket No. 45157 (Order of Affirmance, May 2, 2006); *Coleman v. State*, Docket No. 42051 (Order of Affirmance in Part and Reversal and Remand in Part, June 4, 2004).

presumption of prejudice to the State. Therefore, the district court did not err in dismissing the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao

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