

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DOUGLAS HARRY WARENBACK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71056

FILED

MAR 23 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *J. Wolcott*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Douglas Harry Warenback appeals from a district court order denying the “motion to withdraw plea pursuant to NRS 176.165” he filed on May 24, 2016.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Warenback claims the district court erred in construing his motion as a postconviction petition for a writ of habeas corpus and by concluding his structural-error claim was barred by the doctrine of the law of the case.

We conclude the district court properly construed Warenback’s motion as a postconviction petition for a writ of habeas corpus and its decision to deny the petition produced the correct result albeit for the wrong reason. *See Harris v. State*, 130 Nev. ___, ___, 329 P.3d 619, 628 (2014); *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Warenback’s petition was untimely because it was filed more than two years after entry of the judgment of conviction on December 17,


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


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2013,² *see* NRS 34.726(1), it was successive because he had previously filed two postconviction petitions for writs of habeas corpus,³ *see* NRS 34.810(2), and the procedural bars were unexcused because he made no attempt to show good cause for filing a late and successive petition, *see* NRS 34.726(1); NRS 34.810(3). Therefore, the petition should have been denied as procedurally barred. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005).

Having concluded the district court reached the correct result by denying Warenback's petition, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. William D. Kephart, District Judge
Douglas Harry Warenback
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²No direct appeal was taken.

³*Warenback v. State*, Docket No. 69536 (Order of Affirmance, May 18, 2016); *Warenback v. State*, Docket No. 66294 (Order of Affirmance, April 14, 2015).