

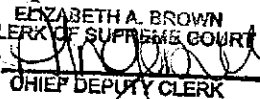
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SETH EDWARD TRZASKA, A/K/A
SETH E. TRZASCA, A/K/A EDWARD
SETH TRZASKA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70559

FILED

MAR 22 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Seth Trzaska appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus, a petition for a writ of extraordinary relief, and a motion to appoint counsel.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Trzaska filed his postconviction petition for a writ of habeas corpus on March 3, 2016, more than one year after entry of the judgment of conviction on December 12, 2014. Thus, Trzaska's petition was untimely filed. *See* NRS 34.726(1). Moreover, Trzaska's petition was successive because he had previously filed a postconviction petition 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 petition.² *See*

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

²*Trzaska v. State*, Docket No. 70101 (Order of Affirmance, December 14, 2016).

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

Trzaska claimed he had good cause to overcome the procedural bars because his claims were based on newly discovered evidence that the Nevada Revised Statutes were not properly enacted and because subject-matter jurisdiction can be raised at any time.

Trzaska failed to demonstrate good cause to overcome the procedural bars because his claims regarding the Nevada Revised Statutes were available to be raised in a timely petition and ignorance of the law is not an impediment external to the defense. See *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003); *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). Trzaska also failed to demonstrate his claims regarding the Nevada Revised Statutes implicated the jurisdiction of the district court. See Nev. Const. art. 6, § 6; NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional power to adjudicate the case.” (internal quotation marks omitted)). Trzaska claimed the enactment of the Nevada Revised Statutes was flawed and unconstitutional because several requirements of the bill creating the Nevada Revised Statutes were not met and members of the Nevada Supreme Court improperly participated in their creation in 1957.

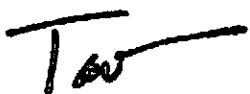
Trzaska conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes merely “constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law.” NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated


by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are contained in the Statutes of Nevada. Thus, Trzaska failed to demonstrate the district court lacked subject-matter jurisdiction over him. Therefore, Trzaska failed to demonstrate good cause to overcome the procedural bars, and we conclude the district court did not err in denying the postconviction petition for a writ of habeas corpus as procedurally barred.

In his petition for a writ of extraordinary relief filed on March 3, 2016, Trzaska challenged his judgment of conviction, and requested the district court to expunge his conviction and order his immediate release from prison. We conclude the district court correctly denied the petition because Trzaska improperly challenged the validity of a judgment of conviction through a petition for a writ of extraordinary relief. See NRS 34.160; NRS 34.320; NRS 34.724(2) (stating a postconviction petition for a writ of habeas corpus is the proper vehicle with which to challenge a judgment of conviction). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

³We also conclude the district court did not abuse its discretion in declining to appoint postconviction counsel. See NRS 34.750(1).

cc: Hon. Susan Johnson, District Judge
Seth Edward Trzaska
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk