

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LELAND JOHN BRYANT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70932

FILED

JUL 12 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Leland John Bryant 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 for the appointment of counsel.¹ Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Bryant argues the district court erred in denying his postconviction petition as procedurally barred. Bryant filed his petition on March 30, 2016, almost nine years after entry of the judgment of conviction on May 29, 2007.² Thus, Bryant's petition was untimely filed. *See* NRS 34.726(1). Bryant's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* Moreover, because the State specifically pleaded laches, Bryant

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

²Bryant did not pursue a direct appeal.

was required to overcome the rebuttable presumption of prejudice. See NRS 34.800(2).

Bryant claimed the procedural bar did not apply to his petition because he challenged the jurisdiction of the district court. He asserted he recently learned the Nevada Revised Statutes do not meet constitutional mandates and are invalid because they do not have an enactment clause, justices of the Nevada Supreme Court unconstitutionally participated in the creation of the Nevada Revised Statutes, the revision of statutes violate separation of powers principles, and the laws authorizing the revised statutes were not passed in accordance with the Nevada Constitution and other laws.

These claims did not implicate the jurisdiction of the courts, and therefore, the procedural bars apply to Bryant's petition. 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)). Further, these claims were reasonably available to be raised in a timely petition and Bryant did not demonstrate an impediment external to the defense prevented him from doing so. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, the district court properly denied the petition as procedurally barred.

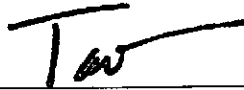
Next, Bryant argues the district court was biased against him because the district court agreed with the State’s assertions that his petition was procedurally barred. However, “rulings and actions of a judge during the course of official judicial proceedings do not establish” bias sufficient to disqualify a district court judge. *In re Petition to Recall*


Dunleavy, 104 Nev. 784, 789-90, 769 P.2d 1271, 1275 (1988). Therefore, Bryant fails to demonstrate this claim has merit.

In his petition for a writ of extraordinary relief filed on March 30, 2016, Bryant 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 properly denied the petition because Bryant improperly challenged the validity of a judgment of conviction through a petition seeking extraordinary relief. See NRS 34.160; NRS 34.320; NRS 34.724(2)(b) (stating a postconviction petition for a writ of habeas corpus is the proper vehicle with which to challenge a judgment of conviction); *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

Having concluded Bryant is not entitled to relief, 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 to represent Bryant in this matter. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).

cc: Hon. Kathleen E. Delaney, District Judge
Leland John Bryant
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk