

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM LEE ENGLAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71669

FILED

NOV 15 2017

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

ORDER OF AFFIRMANCE

William Lee England appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Richard Scotti, Judge.

England filed his petition on August 9, 2016, more than 27 years after issuance of the remittitur on direct appeal on January 18, 1989. *England v. State*, Docket No. 18825 (Order Dismissing Appeal, December 27, 1988). Thus, England's petition was untimely filed.² See NRS 34.726(1). Moreover, England's petition was successive because he had previously filed two postconviction petitions, and it constituted an abuse of the writ as he

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).

²Further, the petition was filed more than one year after the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, §§ 5, 33, at 75-76, 92; *Pellegrini v. State*, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).

raised claims new and different from those raised in his previous petitions.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). England'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 State specifically pleaded laches, England was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

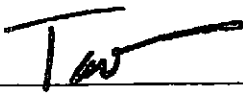
England claimed he had good cause because he was recently advised of the current rules regarding sex offender registration and discovered the current rules were imposed after he was convicted. England asserted imposition of the current rules amount to an impermissible ex post facto violation as applied to him. England did not demonstrate an impediment external to the defense prevented him from raising claims regarding sex offender registration at an earlier time or in a previous petition. See *Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). In addition, the Nevada Supreme Court has already concluded the sex offender registration laws are a civil regulatory scheme, see *State v. Eighth Judicial Dist. Court (Logan D.)*, 129 Nev. 492, 511, 306 P.3d 369, 382 (2013), and England failed to demonstrate the effects of sex offender registration are so punitive as applied to him as to negate the Legislature's intent to impose a regulatory scheme, see *id.* at 511-20, 306 P.3d at 382-88. Accordingly, England failed to demonstrate the current sex offender

³*England v. State*, Docket No. 55844 (Order of Affirmance, September 10, 2010); *England v. State*, Docket No. 21652 (Order Dismissing Appeal, March 6, 1991).

registration rules amount to an ex post facto violation when applied to him. Therefore, we conclude the district court properly concluded England was not entitled to relief.

England also failed to overcome the presumption of prejudice to the State. Therefore, we conclude the district did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Richard Scotti, District Judge
William Lee England
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁴The Honorable Abbi Silver did not participate in the decision in this matter.