

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN MCKAY LARSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72083

FILED

DEC 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; William D. Kephart, Judge. We conclude that the district court did not err by denying the petition and affirm.¹

In his petition, appellant contended that the State inappropriately commented on his exercise of constitutional rights during trial. The district court denied the claim because appellant raised it on direct appeal and this court concluded that no relief was warranted. *See Larson v. State*, Docket No. 67202, 67496 (Order of Affirmance, October 19, 2015). Appellant also contended that his codefendant's statements at sentencing constituted newly discovered evidence. The district court denied the claim because Larson raised it in a motion for a new trial, which was denied, and this court concluded that the trial court did not abuse its discretion. *See id.* The district court correctly determined that the decisions in the prior appeals constitute the law of the case; therefore, no relief is warranted on these claims. *See State v. Haberstroh*, 119 Nev. 173, 188-89,

¹This appeal has been submitted for decision on the record without briefing or oral argument. NRAP 34(f)(3), (g); *see also* NRAP 31(d)(1); *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

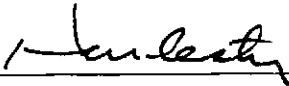
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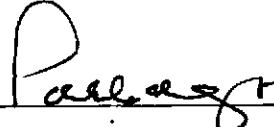
69 P.3d 676, 686 (2003) (“The law of a first appeal is the law of the case in all later appeals in which the facts are substantially the same.”).

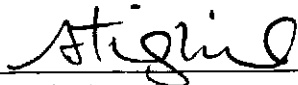
Next, appellant contended that photographic evidence admitted at trial was inconclusive and the victim lacked credibility, as evidenced by the fact that appellant’s wife was acquitted despite the victim’s testimony. The district court denied these claims because they could have been raised on direct appeal and appellant failed to demonstrate good cause and prejudice for failing to do so. *See* NRS 34.810(1)(b). We agree and conclude that the district court did not err by denying these claims.²

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. William D. Kephart, District Judge
Sean McKay Larson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We also conclude that the district court did not abuse its discretion by denying appellant’s request for the appointment of postconviction counsel. *See* NRS 34.750(1).