

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMARR ROWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73722

FILED

APR 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Lamarr Rowell appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on March 7, 2017. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.


Rowell filed his petition more than 7 years after issuance of the remittitur on direct appeal on February 23, 2010. *Rowell v. State*, Docket No. 51577 (Order of Affirmance, January 29, 2010). Thus, Rowell's petition was untimely filed. See NRS 34.726(1). Rowell'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, Rowell was required to overcome the rebuttable presumption of prejudice. See NRS 34.800(2).


Rowell claims his petition should not be procedurally barred because he is challenging the jurisdiction of the district court to sentence him as a habitual criminal, and challenges to jurisdiction can be raised at any time. However, Rowell's claim regarding the district court's ability to sentence him as a habitual criminal does not implicate the jurisdiction of the district court. See Nev. Const. art. 6, § 6; NRS 171.010; *United States*

18.900687

*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, Rowell failed to overcome the rebuttable presumption of prejudice to the State. Accordingly, we conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Jennifer P. Togliatti, District Judge  
Lamarr Rowell  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>We also conclude the district court did not abuse its discretion by declining to appoint postconviction counsel to represent Rowell in this matter. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. \_\_\_, 391 P.3d 760, 761 (2017).