

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TERRELL COCHISE YOUNG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73524

FILED

FEB 13 2018

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

ORDER OF AFFIRMANCE

Terrell Cochise Young appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on April 21, 2017.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Young filed his petition nearly 11 years after entry of the judgment of conviction on August 3, 2006.² Thus, Young's petition was untimely filed. See NRS 34.726(1). Moreover, Young's petition was successive because he had previously filed four postconviction petitions 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 petitions.³ See

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

²No direct appeal was taken.

³*Young v. State*, Docket No. 71229 (Order of Affirmance, July 12, 2017); *Young v. State*, Docket No. 69628 (Order of Affirmance, December 28, 2016). Young also filed postconviction petitions for a writ of habeas corpus in the district court on December 12, 2006, and February 27, 2007, but he did not appeal from the denial of these petitions.

NRS 34.810(1)(b)(2); NRS 34.810(2). Young'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, Young was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

First, Young claims he had good cause to overcome the procedural bars because he received ineffective assistance of postconviction counsel. Young raised this claim in a previous petition, see *Young v. State*, Docket No. 71229 (Order of Affirmance, July 12, 2017), and therefore, this claim was barred by the doctrine of law of the case, which cannot be avoided by a more detailed and focused argument. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Accordingly, the district court did not err by denying this claim.

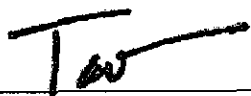
Second, Young appears to argue an impediment external to the defense prevented him from filing his direct appeal and a postconviction petition for a writ of habeas corpus. Specifically, he claims the district court appointed ineffective counsel to assist him with filing a direct appeal and a postconviction petition. We conclude Young failed to demonstrate an impediment external to the defense. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Young was not entitled to the effective assistance of postconviction counsel, see *Brown v. McDaniel*, 130 Nev. 565, 571, 331 P.3d 867, 871-72 (2014); *Young v. State*, Docket No. 71229 (Order of Affirmance, July 12, 2017), and counsel was not appointed to represent him until well after the time for filing a direct appeal and a timely postconviction petition had passed. Therefore, the district court did not err by denying this claim.

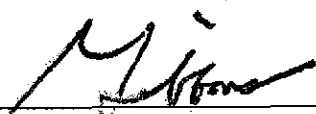
Finally, Young claims denying his petition would be prejudicial because it leaves him without a remedy for postconviction relief through no fault of his own. This claim is belied by the record. Young filed two timely postconviction petitions, the denials of which he did not appeal. Young fails to demonstrate an impediment external to his defense prevented him from filing his claims in a timely petition or prevented him from appealing from the denial of those petitions. *See Hathaway*, 119 Nev. at 252, 71 P.3d at 506. Therefore, the district court did not err by denying this claim.

We also conclude Young failed to overcome the presumption of prejudice to the State, and therefore, his petition was barred by statutory laches. 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.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. William D. Kephart, District Judge
Terrell Cochise Young
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk