

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN BRADLEY HODGES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74005

FILED

MAY 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Bradley Hodges appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Hodges filed his petition on November 23, 2016, more than three years after issuance of the remittitur on direct appeal on October 16, 2013. *Hodges v. State*, Docket No. 62074 (Order of Affirmance, September 18, 2013). Thus, Hodges' petition was untimely filed. *See* NRS 34.726(1). Moreover, Hodges' petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² *See* NRS 34.810(2). Hodges' petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

In his petition, Hodges claimed his postconviction counsel for his prior petition was ineffective for failing to object when the district court

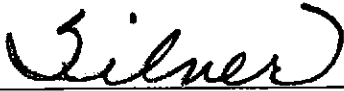
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

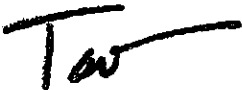
²*Hodges v. State*, Docket No. 70772 (Order of Affirmance, June 14, 2017).

entered a second amended judgment of conviction clarifying that Hodges was sentenced to serve two concurrent terms of 10 to 25 years in prison as a habitual criminal for his convictions for grand larceny and burglary. Hodges also asserted his postconviction counsel was ineffective for failing to challenge entry of the second amended judgment of conviction on appeal from the denial of his prior petition.

To the extent Hodges asserted his claims of ineffective assistance of postconviction counsel constituted good cause, we conclude Hodges is not entitled to relief. Hodges' claims of ineffective assistance of postconviction counsel cannot provide good cause because the appointment of counsel was not statutorily or constitutionally required in his case. See *Brown v. McDaniel*, 130 Nev. 565, 571, 331 P.3d 867, 871-72 (2014); *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997). Therefore, we conclude the district court did not err by dismissing Hodges' petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Elliott A. Sattler, District Judge
Steven Bradley Hodges
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk