

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LYNN HUFFMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69957

**FILED**

JUN 13 2018

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

*ORDER OF AFFIRMANCE*

Lynn Huffman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 21, 2010. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Huffman filed his petition 23 years after issuance of the remittitur on direct appeal on April 21, 1987. *See Yates v. State*, 103 Nev. 200, 734 P.2d 1252 (1987).<sup>1</sup> Huffman's petition was therefore untimely filed. *See* NRS 34.726(1). Huffman's petition was also successive because he raises a claim (challenging the jury instructions) which could have been raised on direct appeal. *See* NRS 34.810(1)(b)(2). Huffman's petition was therefore 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).

The district court's order noted relevant dates and recited the legal standards regarding procedural bars and how they may be overcome.

---

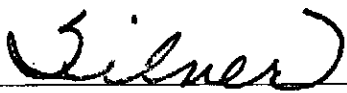
<sup>1</sup>Huffman appealed with his codefendants from trial, Mary Yates and Donovan Stoner.


The order further acknowledged the mandatory nature of the procedural bars, *see State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005), but instead of addressing them, it addressed Huffman's claims on the merits. We conclude this was error. Nevertheless, we affirm the district court's denial of Huffman's petition because the petition was procedurally barred. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

On appeal, Huffman does not claim he has good cause to overcome the procedural bars but rather contends his conviction was a fundamental miscarriage of justice. A petitioner may overcome procedural bars by demonstrating he is actually innocent such that the failure to consider his petition would result in a fundamental miscarriage of justice. *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001). This requires the petitioner to present new evidence of his innocence. *House v. Bell*, 547 U.S. 518, 537 (2006) (“[A] gateway claim requires ‘new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.’” (quoting *Schlup v. Delo*, 513 U.S. 298, 324 (1995))); *Schlup*, 513 U.S. at 316 (“Without any new evidence of innocence, even the existence of a concededly meritorious constitutional violation is not in itself sufficient to establish a miscarriage of justice that would allow a habeas court to reach the merits of a barred claim.”). Huffman merely points to evidence presented at trial to support his claim. As this is not new evidence, he has failed to demonstrate he would suffer a fundamental miscarriage of justice were his

claim not addressed on the merits. Accordingly, Huffman has failed to overcome the procedural bars to his petition, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Elliott A. Sattler, District Judge  
Karla K. Butko  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk