

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VORNELIUS JAMAL PHILLIPS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74935

FILED

SEP 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Vornelius Jamal Phillips appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 7, 2017.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Phillips filed his petition 13 years after entry of the judgment of conviction on April 27, 2004.² Thus, Phillips' petition was untimely filed. *See* NRS 34.726(1). Moreover, Phillips' petition was successive because he had previously filed two postconviction petitions for a writ of habeas corpus.³ *See* NRS 34.810(2). Phillips' petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). Moreover, because the State specifically pleaded laches, Phillips was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

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


²No direct appeal was taken.


³*See Phillips v. State*, Docket No. 68281 (Order of Affirmance, April 15, 2016); *Phillips v. State*, Docket No. 52692 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, March 10, 2010).

Phillips' petition and "good cause for filing a second successive [petition]" were identical to the petition and "good cause for filing a second successive [petition]" he filed in 2015. The Nevada Supreme Court affirmed the district court's denial of that petition and good cause document. See *Phillips v. State*, Docket No. 68281 (Order of Affirmance, April 15, 2016). Thus, the claims raised in the instant petition and good cause document were barred by the doctrine of law of the case. See *Hall v. State*, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975). Therefore, Phillips failed to demonstrate good cause to overcome the procedural bars and failed to overcome the presumption of prejudice to the State. Accordingly, the district court did not err by denying the petition as procedurally barred.

On appeal, Phillips claims he has good cause to overcome the procedural bars because the trial judge was corrupt and he was actually innocent because he was legally insane at the time he committed his crimes. These claims were not raised in the district court below and we decline to consider them for the first time on appeal. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, C.J.
Silver


_____, J.
Gibbons

⁴We conclude the district court did not abuse its discretion by declining to appoint counsel to represent Phillips in this matter. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).

The Honorable Jerome T. Tao did not participate in the decision in this matter.

cc: Hon. Elissa F. Cadish, District Judge
Vornelius Jamal Phillips
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk