

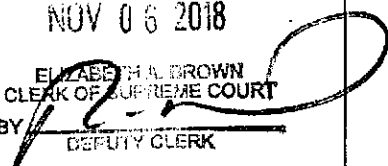
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANCISCO ANTONIO LARA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74829-COA

FILED

NOV 06 2018

ELIZABETH A. DROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Francisco Antonio Lara appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 12, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Lara filed his petition nearly four years after issuance of the remittitur on direct appeal on November 13, 2013. *See Lara v. State*, Docket No. 61431 (Order of Affirmance, October 16, 2013). Lara's petition was therefore untimely filed. *See* NRS 34.726(1). Lara's petition was also successive and an abuse of the writ.<sup>2</sup> NRS 34.810(1)(b)(2); NRS 34.810(2). Lara'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).

Lara did not allege he had good cause to excuse the procedural bars. He did suggest he is actually innocent such that denying

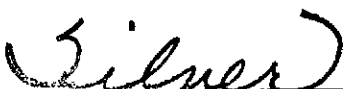
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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).


<sup>2</sup>*See Lara v. State*, Docket No. 69253 (Order of Affirmance, January 19, 2017).

consideration of his substantive claims would result in a fundamental miscarriage of justice. Lara did not demonstrate actual innocence because he failed to show that "it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence." *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); see also *Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). We therefore conclude the district court did not err by denying Lara's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Ronald J. Israel, District Judge  
Francisco Antonio Lara  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk