

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DENNIS ROY GARCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74783

**FILED**

OCT 25 2018

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

*ORDER OF AFFIRMANCE*

Dennis Roy Garcia appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 6, 2017.<sup>1</sup> Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Garcia filed his petition more than two years after entry of the judgment of conviction on June 11, 2015.<sup>2</sup> Garcia did not pursue a direct appeal. Garcia's petition was therefore untimely filed. *See* NRS 34.726(1). His petition was also an abuse of the writ as he filed a claim he had not raised in his prior petition.<sup>3</sup> *See* NRS 34.810(2). Garcia's petition was

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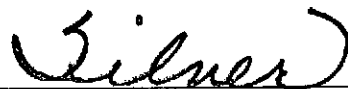
<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).


<sup>2</sup>Garcia's petition was also untimely from the entry of the amended judgment of conviction on June 25, 2015, and of the second amended judgment of conviction on January 5, 2016, both of which merely amended Garcia's presentence credit.

<sup>3</sup>*See Garcia v. State*, Docket No. 70041 (Order of Affirmance, September 20, 2016). Garcia filed a first, timely postconviction petition for

therefore procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3). Garcia did not allege any good cause or prejudice to excuse his procedural bars. We therefore conclude the district court did not err by denying Garcia's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

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

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

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

cc: Hon. Robert W. Lane, District Judge  
Dennis Roy Garcia  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk

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a writ of habeas corpus on November 16, 2015. The district court afforded him relief, and he did not appeal.

<sup>4</sup>We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. See NRS 34.750(1); *Renteria-Nova v. State*, 133 Nev. \_\_\_, \_\_\_, 391 P.3d 760, 760-61 (2017).