

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GISTARVE RUFFIN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74934

FILED

OCT 25 2018

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

ORDER OF AFFIRMANCE

Gistarve Ruffin, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 26, 2017.¹ Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

Ruffin filed his petition more than 21 years after issuance of the remittitur on direct appeal on January 9, 1996, *see Ruffin, Jr. v. State*, Docket No. 26230 (Order of Remand, December 19, 1995), and after entry of the amended judgment of conviction on January 29, 1996.² Ruffin's petition was therefore untimely filed. *See* NRS 34.726(1). Ruffin's petition

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


²Ruffin voluntarily withdrew his appeal from the amended judgment of conviction. *See Ruffin, Jr. v. State*, Docket No. 28239 (Order Dismissing Appeal, October 24, 1996).

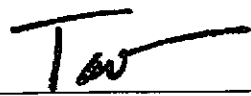
Ruffin's petition is also untimely from the corrected amended judgment of conviction, filed on March 22, 1996; the second corrected amended judgment of conviction, filed on September 18, 2007; and the third corrected amended judgment of conviction, filed on November 6, 2008.

was also successive and an abuse of the writ.³ NRS 34.810(1)(b)(2); NRS 34.810(2). Ruffin'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).

Ruffin did not allege good cause and actual prejudice below. To the extent Ruffin intended his claims regarding the jurisdiction of the sentencing court to constitute good cause, he failed to overcome the procedural bars. Ruffin's claims that the district court failed to follow the proper procedure in adjudicating him a habitual criminal and that his resentencing violated the Double Jeopardy Clause did not implicate the jurisdiction of the sentencing court. See Nev. Const. art. 6, § 6; NRS 171.010; *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). We therefore conclude the district court did not err by denying Ruffin's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

³See *Ruffin, Jr. v. State*, Docket No. 53368 (Order of Affirmance, May 9, 2011); *Ruffin, Jr. v. State*, Docket No. 37666 (Order of Affirmance, August 23, 2002); *Ruffin, Jr. v. State*, Docket No. 32205 (Order Dismissing Appeal, March 2, 1999); *Ruffin, Jr. v. State*, Docket No. 26230 (Order of Remand, December 19, 1995).

cc: Hon. Lynne K. Simons, District Judge
Gistarve Ruffin, Jr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk