

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STANLEY EARNEST RIMER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73693

FILED

AUG 14 2018

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

ORDER OF AFFIRMANCE

Stanly Earnest Rimer appeals from an order of the district court denying the “petition for habeas corpus pursuant to NRS 34.360” filed on December 29, 2016.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Rimer argues his petition was improperly construed as a postconviction petition for a writ of habeas corpus. He claims he filed his petition pursuant to NRS 34.360 and is inquiring into the cause of his imprisonment. Therefore, the district court should not have construed his petition as a postconviction petition for a writ of habeas corpus and should not have applied the procedural bars.

However, the cause of Rimer’s imprisonment is a judgment of conviction and a challenge to the judgment of conviction must be filed in a

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

postconviction petition for a writ of habeas corpus.² See NRS 34.724(2)(b). Therefore, we conclude the district court did not err by construing his petition as a postconviction petition.

Rimer filed his petition more than one year after issuance of the remittitur on direct appeal on July 6, 2015. See *Rimer v. State*, 131 Nev. ___, 351 P.3d 697 (2015). Thus, Rimer's petition was untimely filed. See NRS 34.726(1). Moreover, Rimer's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Rimer's petition was 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).


To the extent Rimer's claims regarding subject matter jurisdiction could be construed as claims of good cause, these claims lacked merit. Rimer's subject matter jurisdiction claims were challenges to the statutes under which he was convicted and challenges to the court procedure, and did not implicate the jurisdiction of the district court. See Nev. Const. art. 6, § 6; NRS 171.010. Therefore, we conclude Rimer failed to demonstrate good cause to overcome the procedural bars, and the district

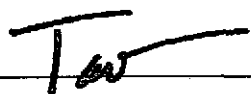
²We also conclude the Eleventh Judicial District Court judge did not err by transferring the petition to the Eighth Judicial District because petitions challenging a judgment of conviction must be filed in the county where the conviction occurred. See NRS 34.738(2)(b).

³*Rimer v. State*, Docket No. 71857 (Order of Affirmance, November 15, 2017).

court did not err by denying the petition as procedurally barred.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas W. Herndon, District Judge
Stanley Earnest Rimer
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk