

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFREY LOGAN JONES, A/K/A  
JEFFERY L. JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75516-COA

FILED

NOV 19 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jeffrey Logan Jones appeals from an order of the district court denying a motion for modification of sentence or postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Jones argues the district court erred by denying his January 17, 2018, motion for modification of sentence or postconviction petition for a writ of habeas corpus. In his motion, Jones contended he was entitled to a new sentencing hearing because the sentencing court did not take his youth into account when imposing sentence. Jones' claim fell outside the narrow scope of claims permissible in a motion to modify sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, without considering the merits of Jones' claim, we conclude the district court did not err by denying the motion.

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

Next, Jones argues the district court erred by denying his postconviction petition for a writ of habeas corpus. Jones' petition was filed on January 17, 2018, almost 30 years after entry of the judgment of conviction on January 29, 1988.<sup>2</sup> Thus, Jones' petition was untimely filed.<sup>3</sup> See NRS 34.726(1). Moreover, Jones' petition was successive because he had previously filed several postconviction petitions 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 petitions.<sup>4</sup> See NRS 34.810(2). Jones' 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, Jones was required to overcome the rebuttable presumption of prejudice. See NRS 34.800(2).

Jones appeared to assert he had good cause due to cases issued by the United States Supreme Court barring the death penalty and mandatory sentences of life without the possibility parole for juvenile offenders. See *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012); *Montgomery v. Louisiana*, \_\_\_ U.S. \_\_\_, 136 S. Ct. 718 (2016). A claim of good cause must be raised within a reasonable time, *Hathaway v. State*, 119 Nev. 248, 251, 71 P.3d 503, 505 (2003), but Jones' petition was filed more than one year

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<sup>2</sup>Jones did not pursue a direct appeal.

<sup>3</sup>Jones' petition was also untimely from the January 1, 1993, effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, § 33, at 92; *Pellegrini v. State*, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).

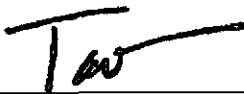
<sup>4</sup>*Jones v. State*, Docket No. 36003 (Order of Affirmance, December 5, 2001); *Jones v. State*, Docket Nos. 30596, 32520 (Order Dismissing Appeals, September 24, 1999); *Jones v. State*, Docket No. 20681 (Order Dismissing Appeal, February 20, 1990).

from when the cases were decided. Jones offered no explanation for this delay and thus failed to demonstrate good cause. Moreover, Jones' reliance upon these cases was misplaced as he did not receive either the death penalty or a sentence of life without the possibility of parole. In addition, Jones did not overcome the presumption of prejudice to the State. See NRS 34.800(2).

Finally, Jones argues the district court erred by denying his request for the appointment of postconviction counsel. The appointment of postconviction counsel was discretionary in this matter. See NRS 34.750(1). After a review of the record, we conclude the district court did not abuse its discretion in this regard as this matter was not sufficiently complex so as to warrant the appointment of postconviction counsel. See *Renteria-Nova v. State*, 133 Nev. \_\_\_, \_\_\_, 391 P.3d 760, 760-61 (2017). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Kathleen E. Delaney, District Judge  
Jeffrey Logan Jones  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk