

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TERRENCE L. LOVOLL, A/K/A  
TERRANCE L. LOVOLL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75604-COA

**FILED**

JAN 17 2019

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

*ORDER OF AFFIRMANCE*

Terrence L. Lovoll appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on January 10, 2018.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Lovoll's petition was untimely because it was filed more than twenty years after the judgment of conviction was entered on January 6, 1998,<sup>2</sup> and it was successive because his previous postconviction petition for a writ of habeas corpus was denied on the merits.<sup>3</sup> See NRS 34.726(1); NRS 34.810(2). Consequently, Lovoll's 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,

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

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

<sup>3</sup>See *Lovoll v. State*, Docket No. 34571 (Order of Affirmance, April 12, 2001).

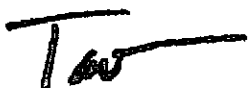
Lovoll was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

In an attempt to overcome the procedural bars, Lovoll claimed he had good cause because his judgment of conviction was not final. The district court found this claim was without merit because it had been available since January 6, 1998, when the judgment of conviction was filed, and Lovoll failed to demonstrate an impediment external to the defense prevented him from raising it in a timely postconviction habeas petition.

The district court's factual findings are supported by substantial evidence and are not clearly wrong, and we conclude Lovoll failed to demonstrate good cause to overcome the procedural bars to his petition and the State's specific plea of laches. See NRS 34.726(1); NRS 34.800(2); NRS 34.810(3); *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (a claim of good cause may not itself be procedurally barred). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, A.C.J.  
Douglas

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

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

cc: Chief Judge, Eighth Judicial District Court  
Terrence L. Lovoll  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk