

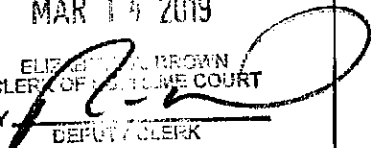
IN THE SUPREME COURT OF THE STATE OF NEVADA

BRENT ELI MORRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76427

FILED

MAR 14 2019

ELIZABETH BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying appellant's postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Appellant filed his petition on May 2, 2018, almost 6 years after remittitur issued from the decision affirming his judgment of conviction on May 9, 2012. *Morris v. State*, Docket No. 58646 (Order of Affirmance, April 12, 2012). The petition was therefore untimely filed. See NRS 34.726(1). Moreover, because appellant had previously sought postconviction relief,² the petition was successive to the extent it raised the same claims, and constituted an abuse of the writ to the extent it raised new claims that could have been raised earlier. See NRS 34.810(2). Accordingly, the petition was subject to dismissal absent a demonstration of good cause and prejudice. See NRS 34.726(1); NRS 34.810(3). Moreover, because the State pleaded

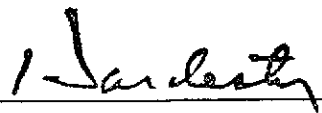
¹Having considered the pro se brief filed by appellant, we conclude that a response is not necessary. NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3). We deny appellant's motion for appointment of counsel.

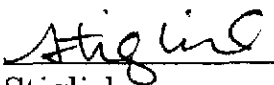
²*Morris v. State*, Docket No. 65382 (Order of Affirmance, June 10, 2015).

laches, appellant was required to overcome the presumption of prejudice to the State. See NRS 34.800(2).

The district court concluded that appellant failed to demonstrate good cause to excuse the procedural bars. We agree. Appellant's allegation that his postconviction attorney was ineffective does not amount to good cause because he had no right to effective assistance of postconviction counsel. See *McKague v. Whitley*, 112 Nev. 159, 164-65, 912 P.2d 255, 258 (1996). And his efforts to obtain federal relief during the filing period also do not constitute good cause. See *Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), *abrogated by statute on other grounds as recognized by State v. Huebler*, 128 Nev. 192, 197 n.2, 275 P.3d 91, 95 n.2 (2012). Appellant also failed to overcome the presumption of prejudice to the State under NRS 34.800(2). Accordingly, we conclude that the district court did not err by denying the petition without conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. Eric Johnson, District Court Judge
Brent Eli Morris
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk