

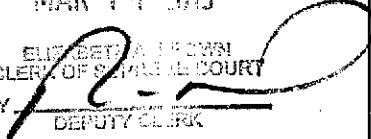
IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN KINFORD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75238

FILED

MAR 14 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Steven Kinford's postconviction petition for a writ of habeas corpus. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

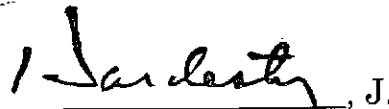
Kinford filed his petition on October 9, 2014, more than 5 years after the order dismissing his direct appeal was entered on August 10, 2009.¹ Thus, the petition was untimely filed. *See* NRS 34.726(1). Moreover, the petition was successive because Kinford had previously sought postconviction relief,² and it constituted an abuse of the writ to the extent it raised claims new and different from those raised in his previous petitions. *See* NRS 34.810(2). Accordingly, the petition was subject to dismissal absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

¹Kinford filed a direct appeal, but withdrew it voluntarily. *Kinford v. State*, Docket No. 52377 (Order Dismissing Appeal, August 10, 2009). This court noted in its order dismissing the appeal that because no remittitur issued, the one-year period for filing a timely postconviction petition under NRS 34.726(1) was to commence from the date of that order.


²*Kinford v. State*, Docket No. 56491 (Order of Affirmance, September 29, 2011); *Kinford v. State*, Docket No. 60510 (Order of Affirmance, December 12, 2012).


Appellant fails to allege cause to excuse the procedural bars. In particular, based on our review of the record, appellant did not clearly show that an impediment external to the defense prevented him from complying with the procedural default rules. *See State v. Huebler*, 128 Nev. 192, 197, 275 P.3d 91, 95 (2012). Thus, we conclude that the district court did not err by denying the petition. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (“Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory.”); *State v. Haberstroh*, 119 Nev. 173, 181, 69 P.3d 676, 682 (2003) (“[P]arties in a post-conviction habeas proceeding cannot stipulate to disregard the statutory procedural default rules.”); *see also Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (“If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.

Hardesty

 J.
Stiglich

 J.
Silver

cc: Hon. Leon Aberasturi, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Lyon County District Attorney
Third District Court Clerk