

IN THE SUPREME COURT OF THE STATE OF NEVADA

ESTEBAN HERNANDEZ,

No. 36916

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

NOV 15 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus.

On October 12, 1999, the district court convicted appellant, pursuant to a guilty plea, of first-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in prison with the possibility of parole. Appellant did not pursue a direct appeal.

On November 12, 1999, appellant, through counsel, filed a post-conviction petition for a writ of habeas corpus. On December 29, 1999, the district court denied the petition without conducting an evidentiary hearing. This court affirmed the district court's order.<sup>1</sup>

On March 21, 2000, while his appeal from the order denying the 1999 petition was pending, appellant filed a proper person post-conviction petition for a writ of habeas corpus. Counsel who represented appellant in the 1999 petition eventually supplemented the petition. The State opposed the petition. On October 10, 2000, the district court denied the petition. This appeal followed.

Appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus.<sup>2</sup> Therefore,

<sup>1</sup>Hernandez v. State, Docket No. 35462 (Order of Affirmance, November 21, 2000).

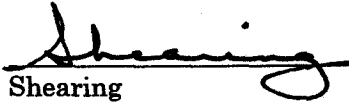
<sup>2</sup>See NRS 34.810(2).

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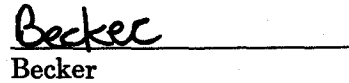
appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice.<sup>3</sup>

Appellant offered no excuse for his procedural default. Moreover, the claims raised in the petition were identical to those raised in the 1999 petition. This court rejected those claims in appellant's previous post-conviction appeal. Thus, in addition to being procedurally defaulted, the claims in the instant petition were barred by the law of the case doctrine.<sup>4</sup> Accordingly, we conclude that the district court did not err in denying appellant's petition, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_  
Shearing J.

  
\_\_\_\_\_  
Rose J.

  
\_\_\_\_\_  
Becker J.

cc: Hon. Joseph T. Bonaventure, District Judge  
Attorney General  
Clark County District Attorney  
Amesbury & Schutt  
Clark County Clerk

<sup>3</sup>See NRS 34.810(3).

<sup>4</sup>See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).