

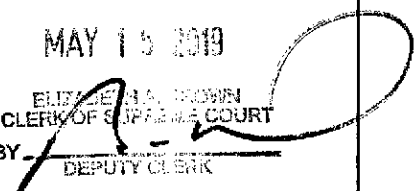
IN THE SUPREME COURT OF THE STATE OF NEVADA

ERICK MARQUIS BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76588

FILED

MAY 15 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Appellant filed his petition on April 30, 2018, more than ten years after issuance of the remittitur on direct appeal on October 9, 2007. *Brown v. State*, Docket No. 47856 (Order of Affirmance, September 13, 2007). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated two 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.² See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition was procedurally barred absent a


¹This appeal has been submitted for decision on the record without briefing or oral argument. NRAP 34(f)(3), (g); see also NRAP 31(d)(1); *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

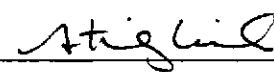
²*Brown v. State*, Docket No. 64907 (Order of Affirmance, June 11, 2014); *Brown v. State*, Docket No. 60197 (Order of Affirmance, January 16, 2013).

demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Based on our review of the record on appeal, we conclude that the district court did not err in denying appellant's petition as procedurally barred. Appellant failed to provide any cogent good cause argument explaining the delay or the reason for a successive petition. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (recognizing that good cause must be an impediment external to the defense). Appellant claimed that he was actually innocent because Nevada Supreme Court justices participated on a commission created in 1951 to revise Nevada's statutes. That argument lacks merit as it does not implicate the trial court's subject matter jurisdiction, *see* Nev. Const. art. 6 § 6, NRS 171.010, or demonstrate appellant's innocence, *see Calderon v. Thompson*, 523 U.S. 538, 559 (1998); *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); *Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. Kathleen E. Delaney, District Judge
Erick Marquis Brown
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk