

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHET DUDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76551-COA

FILED

JUN 13 2019

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

ORDER OF AFFIRMANCE

Chet Duda appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 27, 2018.¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Duda filed his petition nearly five years after entry of the judgment of conviction on August 23, 2013.² Thus, Duda's petition was untimely filed. *See* NRS 34.726(1). Moreover, Duda's petition was successive because he had previously filed a postconviction petition 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 petition. *See* NRS 34.810(2). Duda's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

Duda argued he had good cause because the federal court told him he needed to exhaust his claims in state court. Exhaustion of state


¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

²Duda did not appeal from his judgment of conviction.

remedies in order to seek federal court review was insufficient to demonstrate good cause. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989). Therefore, we conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Chet Duda
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk