

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARKELL DE SHAUN JONES, A/K/A  
MARKELL S. JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70690

**FILED**

APR 19 2017

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

*ORDER OF AFFIRMANCE*

Appellant Markell De Shaun Jones appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Jones filed his petition on November 23, 2015, more than eight years after entry of the judgment of conviction on June 4, 2007.<sup>2</sup> Thus, Jones' petition was untimely filed. *See* NRS 34.726(1). Jones' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* Moreover, because the State specifically pleaded laches, Jones was required to overcome the rebuttable presumption of prejudice. *See* NRS 34.800(2). Jones does not attempt to overcome the procedural bars.

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

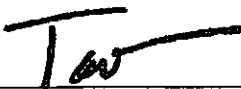
<sup>2</sup>Jones did not pursue a direct appeal.

Instead, Jones argues the district court improperly transferred the petition from the Eleventh Judicial District Court, where he filed it, to the Eighth Judicial District Court, where he was convicted. The district court judge in the Eleventh Judicial District Court found the petition challenged Jones' judgment of conviction because Jones asserted his sentence for the deadly weapon enhancement was unlawful. Because Jones challenged his judgment of conviction and was convicted in the Eighth Judicial District Court, the court directed the petition to be transferred to the Eighth Judicial District Court pursuant to NRS 34.738(1), (2). Given the nature of Jones' claim, we conclude the district court properly transferred the petition to the Eighth Judicial District Court for consideration.

After a review of the record in this case, we conclude Jones fails to demonstrate the district court erred in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Stefany Miley, District Judge  
Markell D. Jones  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk