

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMARR ROWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73584

**FILED**

MAY 16 2018

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

*ORDER OF AFFIRMANCE*

Lamarr Rowell appeals from a district court order denying the postconviction petition for a writ of habeas corpus filed on May 17, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Richard Scotti, Judge.

Rowell's petition was filed more than seven years after the remittitur on direct appeal was issued on January 15, 2010;<sup>2</sup> consequently, it was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See NRS 34.726(1). Moreover, because the State specifically pleaded laches, Rowell was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

Rowell claimed the procedural bars did not apply because he was filing his petition pursuant to NRS 34.360 and he was challenging the jurisdiction of the district court. Rowell's petition requested relief from his judgment of conviction and sentence; therefore, it was a postconviction

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

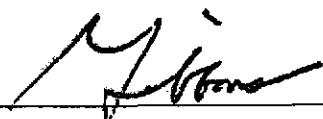
<sup>2</sup>See *Rowell v. State*, Docket No. 51789 (Order of Affirmance, September 9, 2009).

petition for a writ of habeas corpus and was subject to the provisions of NRS 34.720 through NRS 34.830. See NRS 34.720(1); NRS 34.724(2)(b). Furthermore, Rowell's claims did not implicate the jurisdiction of the courts. See Nev. Const. art. 6, § 6; NRS 171.010.

We conclude Rowell failed to demonstrate good cause or a fundamental miscarriage of justice sufficient to excuse the procedural bar to his petition and the State's specific plea of laches. See 34.726(1); NRS 34.800(1). Therefore, the district court did not err in denying the petition,<sup>3</sup> and we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

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

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

cc: Hon. Richard Scotti, District Judge  
Lamarr Rowell  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</sup>Although the district court reached the correct result, it erred in finding this petition was successive because none of Rowell's previous postconviction habeas petitions were decided on the merits. See NRS 34.810(2).

<sup>4</sup>The Honorable Abbi Silver did not participate in the decision in this matter.