

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAUSTEVEION DELANO JOHNSON,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
SOUTHERN DESERT CORRECTIONAL
CENTER,
Respondent.

No. 71180

FILED

FEB 23 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Lausteveion Johnson appeals from an order of the district court denying his petition for “extraordinary writ/(common law writ) based upon lack of subject-matter jurisdiction, jurisdictional challenge/question of jurisdiction.”¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his petition below, Johnson claimed the enactment of the Nevada Revised Statutes was unconstitutional and trial counsel was ineffective for failing to discover this claim. The district court construed the petition as a postconviction petition for a writ of habeas corpus² and denied the petition as procedurally barred.

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

²Based on the nature of the relief requested by Johnson, we conclude the district court did not err by construing the petition for extraordinary relief to be a postconviction petition for a writ of habeas corpus. Affixing the label of “extraordinary writ” to the petition did not alter the character of the claims raised in the petition.


Johnson claims the district court erred by denying his petition as procedurally barred because his claims were based on newly discovered evidence that the Nevada Revised Statutes were not properly enacted and subject-matter jurisdiction can be raised at any time. Johnson filed his petition on June 3, 2016, 12 years after entry of the judgment of conviction on July 15, 2004.³ Thus, Johnson's petition was untimely filed. *See* NRS 34.726(1). Johnson's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*


Johnson fails to demonstrate the district court erred because his claims regarding the Nevada Revised Statutes were available to be raised in a timely petition and ignorance of the law is not an impediment external to the defense. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003); *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). Johnson also fails to demonstrate his claims regarding the Nevada Revised Statutes implicated the jurisdiction of the district court. Johnson claimed the enactment of the Nevada Revised Statutes was flawed and unconstitutional because several requirements of the bill creating the Nevada Revised Statutes were not met. However, Johnson conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes merely "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law." NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated by the Legislative Counsel. *See* NRS 220.120. The actual laws of Nevada

³No direct appeal was taken.

are contained in the Statutes of Nevada. Thus, Johnson failed to demonstrate the district lacked subject-matter jurisdiction over appellant. Therefore, Johnson failed to demonstrate cause for the delay and undue prejudice to overcome the procedural bars, and we conclude the district court did not err 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. Michelle Leavitt, District Judge
Lausteveion Delano Johnson
Clark County District Attorney's Office
Attorney General/Carson City
Eighth District Court Clerk