

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WAYNE COY DEARION, A/K/A WAYNE
COX DEARION,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70468

FILED

APR 19 2017

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

ORDER OF AFFIRMANCE

Appellant Wayne Coy Dearion appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Dearion filed his petition on July 6, 2015, more than nine years after entry of the judgment of conviction on March 20, 2006.² Thus, Dearion's petition was untimely filed. *See* NRS 34.726(1). Dearion's 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, Dearion was required to overcome the rebuttable presumption of prejudice. *See* NRS 34.800(2). Dearion does not attempt to overcome the procedural bars.

Instead, Dearion argues the district court improperly transferred the petition from the Eleventh Judicial District Court, where


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

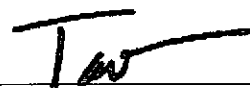
²Dearion did not pursue a direct appeal.

he filed it, to the Eighth Judicial District Court, where he was convicted. Dearion asserts his claim, in which he argued his sentence for the deadly weapon enhancement was unlawful, was a challenge to the computation of time served and should have been considered by the court in the county in which he is incarcerated. However, the Nevada Supreme Court has already concluded Dearion's petition challenged his judgment of conviction and directed the Eleventh Judicial District Court to transfer the petition to the Eighth Judicial District Court pursuant to NRS 34.738(1), (2). *Legrand v. Eleventh Judicial Dist. Court*, Docket No. 69133 (Order Granting Petition, December 16, 2015). Given the Nevada Supreme Court's order and the nature of Dearion's claim, Dearion does not demonstrate the petition was improperly transferred to the Eighth Judicial District Court for consideration.

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

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

³We have reviewed Dearion's August 1, 2016, notice of deficiency and error, and we conclude no relief based upon that document is warranted.

cc: Hon. Eric Johnson, District Judge
Wayne Coy Dearion
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk