


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BILLY WAYNE PERKINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69257

**FILED**

SEP 20 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal 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; Douglas W. Herndon, Judge.

Appellant Billy Wayne Perkins filed his petition on July 21, 2015, more than seven years after issuance of the remittitur on direct appeal on April 29, 2008. *Perkins v. State*, Docket No. 49317 (Order of Affirmance, April 4, 2008). Thus, Perkins' petition was untimely filed. See NRS 34.726(1). Moreover, Perkins' 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.<sup>2</sup> See NRS 34.810(1)(b)(2); NRS 34.810(2). Perkins' petition was procedurally barred

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<sup>1</sup>This 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).


<sup>2</sup>*Perkins v. State*, Docket No. 60118 (Order of Affirmance, February 27, 2014).


absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Perkins claimed ineffective assistance of postconviction counsel excused his procedural defects. Ineffective assistance of postconviction counsel was not good cause in the instant case because the appointment of counsel in the prior postconviction proceeding was not statutorily or constitutionally required. See *Brown v. McDaniel*, 130 Nev. \_\_\_, \_\_\_, 331 P.3d 867, 871-72 (2014); *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Therefore, the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Douglas W. Herndon, District Judge  
Billy Wayne Perkins  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk