

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY ALLEN HATFIELD,
Appellant,
vs.
WILLIAM SANDIE, WARDEN,
LOVELOCK CORRECTIONAL
FACILITY,
Respondent.

No. 69626

FILED

AUG 17 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

GREGORY ALLEN HATFIELD,
Appellant,
vs.
WILLIAM SANDIE, WARDEN,
LOVELOCK CORRECTIONAL
FACILITY,
Respondent.

No. 69627

ORDER OF AFFIRMANCE

These are consolidated appeals from an order of the district court denying a post-conviction petition for a writ of habeas corpus filed in district court case number PC 6022 and a motion to reopen district court case number CR 5117A and consolidate it with district court case number CR 6022.¹ Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

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

Appellant Gregory Allen Hatfield claims the district court erred by dismissing the post-conviction petition for a writ of habeas corpus filed in PC 6022 as procedurally barred.² We disagree.

Hatfield filed his petition on November 19, 2015, more than six years after issuance of the remittitur on direct appeal on March 10, 2009, in CR 6022. *Hatfield v. State*, Docket No. 51719 (Order of Affirmance, February 11, 2009). Thus, Hatfield's petition was untimely filed. See NRS 34.726(1). Moreover, Hatfield's petition was successive because he had previously filed four postconviction petitions for a writ of habeas corpus.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Hatfield's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Hatfield asserts he can overcome the procedural bars because the State impeded his ability to obtain the transcript for the record in CR 5117A; as a result of the State's actions, he did not get the complete record in CR 5117A until recently; and the transcript for the proceedings in CR

²The district court's order also denies a postconviction petition filed in PC 5117A. The denial of the petition in PC 5117A is the subject of the consolidated appeals in Docket Nos. 69624 and 69625.

³*Hatfield v. State*, Docket Nos. 68078, 68079, 68080 (Order of Affirmance, November 19, 2015); *Hatfield v. State*, Docket No. 66480 (Order of Affirmance, January 15, 2015); *Hatfield v. LeGrand*, Docket No. 62684 (Order of Affirmance, September 16, 2014); *Hatfield v. Warden*, Docket No. 57351 (Order of Affirmance, September 15, 2011).

5117A demonstrates he is factually innocent of his conviction for battery with the use of a deadly weapon in CR 6022.⁴

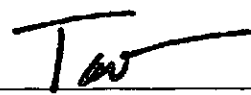
These same good-cause claims were raised and rejected by the Nevada Court of Appeals. *Hatfield v. State*, Docket Nos. 68078, 68079, 68080 (Order of Affirmance, November 19, 2015). The doctrine of the law of the case bars further litigation of these claims and “cannot be avoided by a more detailed and precisely focused argument.” *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Further, Hatfield failed to demonstrate he is actually innocent of his conviction for battery with the use of a deadly weapon in CR 6022 because he failed to show that “it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence.” *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); *Berry v. State*, 131 Nev. ___, ___, 363 P.3d 1148, 1154 (2015). In CR 6022, the victim testified that Hatfield pointed a gun at him and shot him in the head. Contrary to Hatfield’s assertion, his acquittal of felon in possession of a firearm in CR 5117A does not demonstrate he is actually innocent of battery with the use of a deadly weapon in CR 6022. There is nothing in the transcript for the proceedings in CR 5117A that would undermine the jury’s verdict in CR 6022 because nothing in the transcript indicates the jury did not find he used a firearm when committing the battery against the victim in CR 6022. Therefore, we conclude the district court did not err by dismissing the petition as procedurally barred.

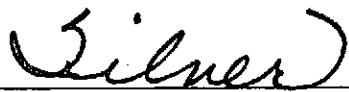
⁴In a bifurcated trial, Hatfield was convicted in CR 6022 of battery with the use of a deadly weapon and was immediately thereafter acquitted by the same jury of felon in possession of a firearm in CR 5117A, which was charged based on the same incident charged in CR 6022.

To the extent Hatfield is attempting to appeal from the district court order denying his motion to reopen CR 5117A and consolidate that case with CR 6022, we lack jurisdiction to consider the appeal because no statute or court rule authorizes an appeal from the denial of such a motion. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Robert W. Lane, District Judge
Gregory Allen Hatfield
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk

⁵Because the appeals in Docket Nos. 69624, 69625, 69626, and 69627 have all been transferred to this court for resolution, we deny Hatfield's motions filed on June 20, 2016, and July 5, 2016.