

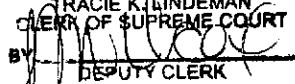
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM JAMES BERRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69186

FILED

JUN 21 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a “motion to vacate void judgment of conviction.”¹ Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

In his motion filed on September 24, 2015, appellant William James Berry challenged the validity of his judgment of conviction. Due to the nature of the claims raised, the motion was properly construed as a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(b) (stating a postconviction petition for a writ of habeas corpus is the exclusive remedy with which to challenge the validity of a judgment of conviction).

¹This 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).

The motion was filed more than 27 years after issuance of the remittitur on direct appeal on July 12, 1988. *Berry, Sr. v. State*, Docket No. 18098 (Order Dismissing Appeal, June 23, 1988). Thus, Berry's motion was untimely filed.² See NRS 34.726(1). Moreover, Berry's motion was successive because he had previously filed a postconviction petition for a writ of habeas corpus.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Berry's motion 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).

Berry claimed the procedural bars do not apply because he is actually innocent. Berry asserted he is actually innocent because the trial court did not complete its investigation into his competency before the beginning of his trial, he was incompetent during his trial, and he was legally insane when he committed the crime. The Nevada Supreme Court has already considered and rejected these claims. *Berry, Sr. v. State*, Docket No. 49014 (Order of Affirmance, August 2, 2007). The doctrine of the law of the case prevents further litigation of these issues and "cannot be avoided by a more detailed and precisely focused argument." See *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). We therefore

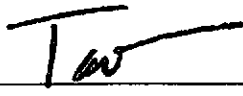
²Further, the petition was filed more than one year after the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, §§ 5, 33, at 75-76, 92; *Pellegrini v. State*, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).


³*Berry, Sr. v. State*, Docket No. 49014 (Order of Affirmance, August 2, 2007).

conclude the district court did not err in denying Berry's petition.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
William James Berry, Sr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk