

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JULIUS BRADFORD,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 79635-COA

FILED

MAY 27 2020

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

ORDER OF AFFIRMANCE

Julius Bradford appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 25, 2019. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Bradford contends the district court erred by denying his petition as procedurally barred without first conducting an evidentiary hearing. Bradford filed his petition more than nine years after issuance of the remittitur on direct appeal on December 15, 2009. *See Bradford v. State*, Docket No. 50630 (Order of Affirmance, June 30, 2009). Bradford's petition was therefore untimely filed. *See* NRS 34.726(1). The petition was also successive insofar as he re-raised claims raised in his previous petitions and an abuse of the writ insofar as he raised claims new and different from those raised in his previous petitions.¹ *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Bradford's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice, *see* NRS 34.726(1); NRS

¹*See Bradford v. State*, Docket No. 67884-COA (Order of Affirmance, July 27, 2016); *Bradford v. State*, Docket No. 61559 (Order of Affirmance, October 16, 2014); *Bradford v. State*, Docket No. 58529 (Order of Affirmance, July 23, 2013).

34.810(1)(b); NRS 34.810(3); or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015). To warrant an evidentiary hearing, Bradford had to allege “specific factual allegations not belied by the record that, if true, would entitle him to relief.” *Id.* at 967, 363 P.3d at 1154-55 (quotation marks omitted).

Bradford claimed the procedural bars did not apply to his petition because he challenged the jurisdiction of the district court. He argued he had good cause because he only recently learned that a defect in a piece of 1957 legislation rendered the criminal statutes under which he was prosecuted invalid and deprived the district court of jurisdiction over his case. “In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). A petitioner may do so by “showing that the factual or legal basis for a claim was not reasonably available to counsel, or that some interference by officials, made compliance impracticable.” *Id.* (internal quotation marks omitted).

Bradford’s claim did not demonstrate good cause. He argued he was unable to raise this claim earlier because state agencies allegedly obfuscated the issue. Bradford did not specify what had changed to allow him raise the claim now. His lack of earlier awareness of a possible argument did not demonstrate good cause. *Cf. Phelps v. Dir., Nev. Dep’t of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (noting a petitioner’s illiteracy and lack of legal assistance did not demonstrate good cause). Moreover, his claims did not implicate the jurisdiction of the courts. *See Nev. Const. art. 6, § 6; NRS 171.010; see also United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s

statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)).

Bradford also claimed he was actually innocent because the defect in the 1957 Nevada Revised Statutes (NRS) meant that his actions did not constitute a crime. Bradford observed that S.B. 2, enacted in 1957, provided that the NRS, which it created, were “attached hereto,” *see* 1957 Nev. Stat., ch. 2, § 9, at 4, that the statutes pursuant to which he was convicted were not attached in the Statutes of Nevada, and therefore the acts those statutes purportedly criminalized were not criminal acts. Bradford’s argument was fundamentally flawed because § 8 of that same act mandated that, despite the language in § 9, “[t]he provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada” Bradford thus failed to demonstrate any fundamental miscarriage of justice to overcome these procedural bars. *See Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996).

For the foregoing reasons, we conclude the district court did not err by denying Bradford’s petition as procedurally barred without first conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Julius Bradford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk