

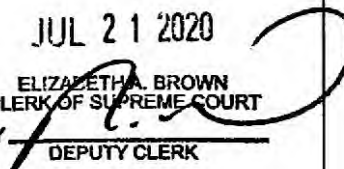
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL ANTHONY JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79760-COA

**FILED**

JUL 21 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Michael Anthony Jones appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Jones filed his petition on June 5, 2019, more than 12 years after entry of the judgment of conviction on September 26, 2006.<sup>1</sup> Thus, Jones's petition was untimely filed. *See* NRS 34.726(1). Moreover, Jones's 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(2). Jones's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). Moreover, because the State specifically pleaded laches, Jones was required to overcome the rebuttable presumption of prejudice to the State. *See* NRS 34.800(2). To warrant an evidentiary

---

<sup>1</sup>Jones did not pursue a direct appeal.


<sup>2</sup>*Jones v. State*, Docket No. 50492 (Order of Affirmance, April 18, 2008).

hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record and, if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046, 194 P.3d 1224, 1233-34 (2008).

Jones appeared to assert he had good cause due to his youth, lack of mental development, and limited legal knowledge. However, those issues did not demonstrate that an impediment external to the defense prevented Jones from raising his underlying claims at an earlier time. See *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding petitioner's claim of organic brain damage, borderline mental disability, and reliance on the assistance of an inmate law clerk unschooled in the law did not constitute good cause for the filing of a successive postconviction petition), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003). In addition, Jones failed to overcome the presumption of prejudice to the State. See NRS 34.800(2). Therefore, we conclude the district court did not err by denying the petition as procedurally barred without conducting an evidentiary hearing. See *Rubio*, 124 Nev. at 1046 n.53, 194 P.3d at 1234 n.53 (noting a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Michael Villani, District Judge  
Michael Anthony Jones  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk