

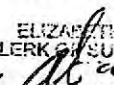
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MANUEL MELENDEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80472-COA

FILED

SEP 23 2020

ELIZABETH A. REYNOLDS
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Manuel Melendez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on August 19, 2019. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Melendez's petition purported to challenge the computation of time served. The district court properly determined that it challenged the validity of both the judgment of conviction and the amended judgment of conviction and that it did not challenge the computation of time served pursuant to those judgments of conviction. *See* NRS 34.738(3); *Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006) (“[A] claim for presentence credit is a claim challenging the validity of the judgment of conviction and sentence.”).

Melendez's petition was untimely because it was filed more than seven years after the remittitur on direct appeal was issued on February 7, 2012,¹ and more than seven years after the amended judgment

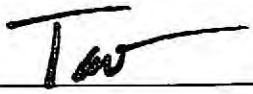
¹*See Melendez v. State*, Docket No. 57594 (Order Affirming in Part, Reversing in Part and Remanding, January 12, 2012).

of conviction was entered on April 25, 2012.² See NRS 34.726(1). Melendez's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus and that petition was decided on the merits.³ See NRS 34.810(2). Consequently, Melendez'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, Melendez was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

Melendez did not attempt to show good cause and actual prejudice, and he did not make any showing that would overcome the presumption of prejudice to the State. Therefore, we conclude the district court did not err by denying his procedurally barred petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²Melendez did not pursue a direct appeal from his amended judgment of conviction.

³See *Melendez v. State*, Docket No. 65526-COA (Order of Affirmance, July 14, 2015).

cc: Hon. Tierra Danielle Jones, District Judge
Manuel Melendez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk