

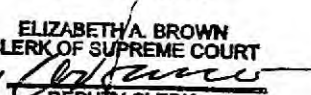
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KARL WILLIAM SCHENKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81082-COA

FILED

OCT 23 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Karl William Schenker appeals from an order of the district court dismissing a “second successive motion to withdraw guilty plea on newly discovered evidence,” filed on May 24, 2018. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Schenker argues the district court erred by applying *Harris v. State*, 130 Nev. 435, 329 P.3d 619 (2014), to his motion to withdraw the guilty plea because his motion was raised pursuant to NRS 176.515(1). However, this court already considered and rejected this claim. See *Schenker v. State*, Docket No. 76746-COA (Order Affirming in Part, Reversing in Part and Remanding, April 18, 2019). Because this claim has already been considered and rejected by this court, the doctrine of the law of the case prevents further consideration of this issue. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975).

Schenker filed his motion more than nine years after entry of the judgment of conviction on November 14, 2008.¹ Thus, Schenker’s

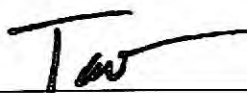
¹Schenker’s direct appeal was dismissed for lack of jurisdiction because the notice of appeal was untimely filed. *Schenker v. State*, Docket

motion was untimely filed. *See* NRS 34.726(1). Schenker's motion was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Schenker appeared to assert he had cause for the delay because, in 2016, he discovered a police officer involved in his case was not in good standing with his police department. A claim of good cause must be raised within a reasonable time. *Hathaway v. State*, 119 Nev. 248, 251, 71 P.3d 503, 505 (2003). One year provides sufficient time to present a claim that was not factually or legally available at the time of the procedural default. *Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018). Schenker's motion was filed more than one year after he allegedly learned of the information concerning the officer, and accordingly, his good-cause claim was not raised within a reasonable time. Therefore, we conclude the district court did not err by concluding Schenker was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

No. 53006 (Order Dismissing Appeal, February 26, 2009). Accordingly, the proper date to measure timeliness is the entry of the judgment of conviction. *See Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

cc: Hon. Kathleen M. Drakulich, District Judge
Karl William Schenker
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk