

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
CARLOS ALFREDO GURRY,
Respondent.

No. 79961

THE STATE OF NEVADA,
Appellant,
vs.
CARLOS ALFREDO GURRY,
Respondent.

No. 79962

FILED

NOV 13 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE


These are appeals from a district court order granting a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

In his fifth, untimely postconviction petition for a writ of habeas corpus, respondent Carlos Gurry argued that he could establish good cause and prejudice due to significant new evidence from recently unsealed documents relating to a judicial-bias claim. *See* NRS 34.726(1) (requiring a petitioner to demonstrate cause for the delay and undue prejudice to excuse a late petition); NRS 34.810(2) (requiring a petitioner to demonstrate good cause and actual prejudice to excuse a successive petition); *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (recognizing that good cause may be established when the factual basis was not reasonably available for a timely petition); *see also Rippo v. State*, 134 Nev. 411, 430, 423 P.3d 1084, 1102 (2018) (recognizing that the pertinent inquiry for a judicial-bias claim is “whether, considering all the circumstances alleged, the risk of bias was too high to be constitutionally tolerable” (quoting *Rippo*

v. Baker, 580 U.S. ___, 137 S. Ct. 905, 907 (2017))). The district court granted the petition and ordered a new trial, determining that Gurry had demonstrated good cause and actual prejudice to overcome the procedural bars. Having reviewed the record, we conclude substantial evidence supports the district court's findings and the district court did not err as a matter of law. We further conclude that Gurry demonstrated an exception to the law-of-the-case doctrine because this court's decision in *Gurry v. State*, Docket No. 52185 (Order of Affirmance, July 23, 2009), was clearly erroneous in light of the evidence recently unsealed and adherence to the decision would work a manifest injustice. *Hsu v. Cty. of Clark*, 123 Nev. 625, 631-32, 173 P.3d 724, 729-30 (2007) (recognizing an exception to the doctrine of the law of the case). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Pickering


_____, J.
Parraguirre


_____, J.
Hardesty

cc: Hon. Jacqueline M. Bluth, District Judge
Attorney General/Carson City
Clark County District Attorney
Law Office of Christopher R. Oram
Eighth District Court Clerk