

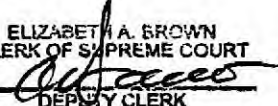
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ESTEBAN HERNANDEZ,
Appellant,
vs.
WILLIAM HUTCHINGS, WARDEN,
Respondent.

No. 82035-COA

FILED

MAY 20 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Esteban Hernandez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Hernandez filed his petition on August 3, 2020, more than 20 years after entry of the judgment of conviction on October 12, 1999.¹ Thus, Hernandez's petition was untimely filed. *See* NRS 34.726(1). Moreover, Hernandez has filed several postconviction petitions for a writ of habeas corpus, and his petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.² *See* NRS 34.810(2). Hernandez's petition was procedurally barred absent a

¹Hernandez did not pursue a direct appeal.

²*Hernandez v. State*, Docket No. 74843-COA (Order of Affirmance, November 6, 2018); *Hernandez v. State*, Docket No. 70205 (Order Dismissing Appeal, June 3, 2016); *Hernandez v. State*, Docket No. 60246 (Order of Affirmance, October 8, 2012); *Hernandez v. State*, Docket No. 40117 (Order of Affirmance, June 25, 2003); *Hernandez v. State*, Docket No. 36916 (Order of Affirmance, November 15, 2001); *Hernandez v. State*, Docket No. 35462 (Order of Affirmance, November 21, 2000).

demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

Hernandez did not attempt to demonstrate good cause to overcome the procedural bars. To the extent that Hernandez contended the procedural bars did not apply to his petition because his conviction was not final due to errors contained within the presentence investigation report, Hernandez's claim lacked merit. Hernandez's judgment of conviction became final when it was signed by the district court judge and entered by the court clerk. See *Miller v. Hayes*, 95 Nev. 927, 929, 604 P.2d 117, 118 (1979). Therefore, the district court properly applied the procedural bars to Hernandez's petition, see *State v. Eighth Judicial Dist. Court*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory."), and it did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Bulla

³The Honorable Jerome T. Tao did not participate in the decision in this matter.

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