

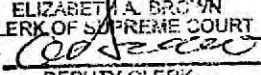
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS WILLIAM HARSH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81989-COA

FILED

MAY 25 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Thomas William Harsh appeals from an order of the district court denying postconviction petitions for a writ of habeas corpus filed on June 4, 2020 and August 24, 2020.¹ Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Harsh filed his August 2020 petition more than seven years after issuance of the remittitur on direct appeal on April 10, 2013. *See Harsh v. State*, Docket No. 59417 (Order of Affirmance, March 14, 2013). Thus, Harsh's petition was untimely filed. *See* NRS 34.726(1). Moreover, Harsh's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Harsh's petition was procedurally barred

¹Harsh does not challenge the district court's order as it relates to his June 4, 2020, petition.


²*Harsh v. State*, Docket No. 71043-COA (Order of Affirmance, June 14, 2017).

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

Harsh claimed he had good cause because a change in the law, which passed in 2020 and applies retroactively to Harsh, meant he no longer qualified for large habitual criminal treatment. Harsh filed his petition within a reasonable time of a change in the law. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (holding that a change in the law may constitute good cause). However, he failed to demonstrate the Legislature intended the law to apply retroactively. See *State v. Second Judicial Dist. Court (Pullin)*, 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008) (holding that courts must apply the law in effect at the time a defendant commits a crime “unless the Legislature clearly expresses its intent to apply a law retroactively”). Therefore, we conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Cristina D. Silva, District Judge
Thomas William Harsh
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk