

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 83032-COA

FILED

NOV 17 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Justin Odell Langford appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 9, 2021, and a supplemental petition filed on February 25, 2021. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Langford claims the district court erred by denying his petition as procedurally barred. Langford filed his petition more than three years after issuance of the remittitur on direct appeal on July 24, 2017. *See Langford v. State*, No. 70536, 2017 WL 2815087 (Nev. June 27, 2017) (Order of Affirmance). Thus, Langford's petition was untimely filed. *See* NRS 34.726(1). Moreover, Langford'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 petitions.¹

¹*See Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance). Langford also filed postconviction petitions for a writ of habeas corpus in the district court on November 19, 2018, and November 19, 2019, but he did not appeal from the district court orders denying those petitions.

See NRS 34.810(1)(b)(2); NRS 34.810(2). Langford's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

First, Langford claimed he had good cause because the trial court lacked jurisdiction, the Nevada Revised Statutes were not properly enacted, the jurors were not properly sworn, and the State committed fraud upon the court and falsely prosecuted him. These claims have already been considered and rejected. See *Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance); *Langford v. State*, No. 80972-COA, 2020 WL 6130668 (Nev. Ct. App. Oct. 16, 2020) (Order of Affirmance). The doctrine of the law of the case prevents further consideration of these issues. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797 798-99 (1975). "The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings." *Id.* at 316, 535 P.2d at 799. Therefore, we conclude the district court did not err by rejecting these good-cause claims.

Second, Langford appeared to claim he had good cause because counsel did not send him his full case file. Counsel's failure to send a petitioner his case file does not constitute good cause because it does not "prevent [the petitioner] from filing a timely petition." *Hood v. State*, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995). Langford failed to demonstrate that counsel's alleged failure to send Langford his case file prevented him from filing a timely petition, and thus, Langford did not demonstrate good cause. Therefore, we conclude the district court did not err by rejecting this good-cause claim.

Langford also claims on appeal that the district court erred by conducting a hearing concerning the petition without his being present. A criminal defendant does not have an unlimited right to be present at every proceeding. *See Gallego v. State*, 117 Nev. 348, 367-68, 23 P.3d 227, 240 (2001), *abrogated on other grounds by Nunnery v. State*, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011). A “defendant must show that he was prejudiced by the absence.” *Kirksey v. State*, 112 Nev. 980, 1000, 923 P.2d 1102, 1115 (1996). The record indicates the hearing at issue was not an evidentiary hearing, no testimony or argument was presented, and the district court merely announced it denied Langford’s petition. Because the arguments Langford contends he would have raised at the hearing were in his petition, he does not demonstrate he was prejudiced by his absence from the relevant hearing. Accordingly, we conclude the district court did not err in this regard.² Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²Langford also claims the district court erred by allowing the State to file a late response and by misidentifying the respondent. Even assuming the State’s response was late or the respondent was misidentified, Langford fails to demonstrate he was prejudiced because his claims were procedurally barred. *See* NRS 178.598 (“Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.”).

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Justin Odell Langford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk