

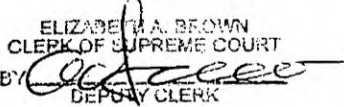
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FELTON L. MATTHEWS, JR.,
Appellant,
vs.
THE STATE OF NEVADA; NEVADA
PAROLE COMMISSION; NDOC; CITY
OF LAS VEGAS; THE LAS VEGAS
COURTYARD; CHRISTOPHER
DERRICO; WARDEN WILLIAM A.
GITTERE OF ESP; AND NDOC
DIRECTOR CHARLES DANIELS,
Respondents.

No. 84098-COA

FILED

NOV 16 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Felton L. Matthews, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 8, 2021, and a supplemental petition filed on September 7, 2021. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Matthews filed his petition nearly 18 years after issuance of the remittitur on direct appeal on August 5, 2003. *See Matthews v. State*, Docket No. 39717 (Order of Affirmance, July 9, 2003). Thus, Matthews' petition was untimely filed. *See* NRS 34.726(1). Moreover, Matthews' 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 *See* NRS 34.810(2). Matthews'

¹*Matthews v. State*, No. 67854-COA, 2015 WL 6442405 (Nev. Ct. App. Oct. 20, 2015) (Order of Affirmance); *Matthews v. State*, Nos. 59017, 59247, 2012 WL 171359 (Nev. Jan. 18, 2012) (Order of Affirmance); *Matthews v.*

petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). To demonstrate good cause, “a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Moreover, a good-cause claim must be raised within a reasonable time after the basis of the claim becomes available. *See id.* at 254-55, 71 P.3d at 507-08. Further, because the State specifically pleaded laches, Matthews was required to overcome the rebuttable presumption of prejudice to the State. *See* NRS 34.800(2).

Matthews argues the district court erred by denying his petition as procedurally barred. He claims he demonstrated good cause because the district court failed to correct errors in his presentence investigation report (PSI). He argues the errors in his PSI caused his presentence psychosexual evaluation to be inaccurate, which in turn prejudiced him when parole restrictions were imposed.

Matthews raised the claim at sentencing. Therefore, the good-cause claim was available to be raised in a timely filed postconviction petition for a writ of habeas corpus. Matthews fails to demonstrate an impediment external to the defense prevented him from raising this claim. Further, Matthews fails to demonstrate he was prejudiced. While he claims the errors led to “unconstitutional parole restrictions,” he does not explain


State, Docket No. 53552 (Order of Affirmance, October 21, 2009); *Matthews v. Warden*, No. 52582, 2009 WL 2601486 (Nev. Aug. 21, 2009) (Order of Affirmance); *Matthews v. State*, No. 50871, 2008 WL 6062142 (Nev. Aug. 12, 2008) (Order of Affirmance); *Matthews v. State*, Docket No. 47145 (Order of Affirmance, October 3, 2006); *Matthews v. State*, Docket No. 43822 (Order of Affirmance, March 10, 2005).

how the restrictions were unconstitutional or how the restrictions imposed related to the alleged errors in his PSI. Therefore, we conclude the district court did not err by denying his petition as procedurally barred.

Matthews also argues that the procedural bars do not apply because he filed his petition within a reasonable time of his claims becoming available. Further, he argues that his petition should not have been barred by the doctrine of laches. Matthews did not raise these claims below, and we decline to consider them for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).

Finally, the remaining claims raised in his petition challenged the imposition of parole conditions. These claims were outside the scope of a postconviction petition for a writ of habeas corpus because they did not challenge the judgment of conviction or the computation of time served. *See NRS 34.720; see also Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) (stating “a petition for writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof”). Therefore, we conclude the district court did not err by denying these claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Sgro & Roger
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk