

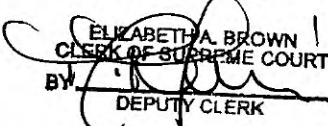
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CORNELIUS EUGENE ROGERS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 85225-COA

**FILED**

MAR 24 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Cornelius Eugene Rogers appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 12, 2021. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Rogers filed his petition more than 11 years after issuance of the remittitur on direct appeal on June 22, 2010. *See Rogers v. State*, No. 51514, 2010 WL 3271954 (Nev. May 28, 2010) (Order of Affirmance). Thus, Rogers' petition was untimely filed. *See* NRS 34.726(1). Moreover, Rogers' 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 to the extent he raised claims new and different from those raised in his previous petition.<sup>1</sup> *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Rogers' 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).

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<sup>1</sup>*See Rogers v. State*, No. 66081, 2015 WL 4504028 (Nev. July 21, 2015) (Order of Affirmance).

Rogers claimed the Supreme Court's decision in *McCoy v. Louisiana*, 584 U.S. \_\_\_, 138 S. Ct. 1500 (2018), provides good cause. Rogers filed his petition more than three years after *McCoy* was decided and therefore did not raise his claims within a reasonable time after they became available. *See Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018) (concluding that a claim is raised within a reasonable time when the petition is filed within one year after the factual or legal basis for the claim becomes available). Accordingly, we conclude the district court did not err by denying this good-cause claim.

Rogers claims on appeal that the district court failed to conduct an independent and impartial analysis of his petition and instead relied solely on the State's response. Judges are presumed to be impartial. *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011). And the State prepared the written order in accordance with the local rules. *See* EDCR 1.90(a)(4) (“[T]he prevailing party shall submit a written order to the judge . . . .”); EDCR 7.21 (requiring the prevailing party to provide the court with a draft order or judgment). Therefore, we conclude Rogers is not entitled to relief based on this claim. For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jasmin D. Lilly-Spells, District Judge  
Cornelius Eugene Rogers  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk