

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL ANTHONY JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 85363-COA

FILED

MAY 10 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
*E. Brown*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Michael Anthony Jones appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Jones filed his petition on June 13, 2022, more than 15 years after entry of the judgment of conviction on September 26, 2006.<sup>1</sup> Thus, Jones's petition was untimely filed. *See* NRS 34.726(1). Moreover, Jones'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.<sup>2</sup> *See* NRS 34.810(2). Jones's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

Jones claimed he had good cause to overcome the procedural bars because he could not raise his claims of ineffective assistance of counsel

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<sup>1</sup>Jones did not pursue a direct appeal.

<sup>2</sup>*Jones v. State*, No. 79760-COA, 2020 WL 4201014 (Nev. Ct. App. July 21, 2020) (Order of Affirmance); *Jones v. State*, Docket No. 50492 (Order of Affirmance, April 18, 2008).

until the Nevada Supreme Court issued its decision in *Gonzales v. State*, 137 Nev. 398, 492 P.3d 556 (2021). *Gonzales* did not announce a new rule of law; rather, the supreme court merely clarified that NRS 34.810(1)(a) never precluded claims that counsel rendered ineffective assistance at sentencing. *See id.* at 403, 492 P.3d at 562 (“In sum, we explicitly hold today what has been implicit in our caselaw for decades.”). As such, Jones could have raised his claims prior to the supreme court’s decision in *Gonzales*. *See Rivers v. Roadway Exp., Inc.*, 511 U.S. 298, 312-13 (1994) (“A judicial construction of a statute is an authoritative statement of what the statute meant before as well as after the decision of the case giving rise to that construction.”); *see also Nika v. State*, 124 Nev. 1272, 1286, 198 P.3d 839, 849 (2008) (discussing when a “state court interpretation of a state criminal statute constitutes a change in—rather than a clarification of—the law”). Thus, Jones failed to demonstrate good cause to overcome the procedural bars. Therefore, we conclude the district court did not err by denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Jacqueline M. Bluth, District Judge  
Michael Anthony Jones  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk