

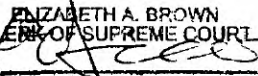
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD O'NEAL CALVIN,
Appellant,
vs.
WILLIAM HUTCHINGS, WARDEN;
AND THE STATE OF NEVADA,
Respondents.

No. 87408-COA

FILED

JUL 26 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ronald O'Neal Calvin appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on May 17, 2023. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Calvin filed his petition more than 16 years after issuance of the remittitur on direct appeal on February 27, 2007. *See Calvin v. State*, 122 Nev. 1178, 147 P.3d 1097 (2006). Thus, Calvin's petition was untimely filed. *See* NRS 34.726(1). Moreover, Calvin'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 *See* NRS 34.810(3).² Calvin's petition was procedurally barred

¹*See Calvin v. State*, Docket No. 49656 (Order of Affirmance, December 10, 2007). Calvin also filed a postconviction petition for a writ of habeas corpus in the district court on June 13, 2007. Calvin did not appeal from the district court's order denying that petition.


²The subsections within NRS 34.810 were recently renumbered. We note the substance of the subsections cited herein was not altered. *See* A.B. 49, 82d Leg. (Nev. 2023).

absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(4).


Calvin did not allege in his petition that he had good cause to overcome the procedural bars. Therefore, we conclude the district court did not err by denying the petition as procedurally barred.

On appeal, Calvin appears to argue that he should have been allowed to withdraw his plea because he moved to withdraw his plea presentencing, and the procedural bars should not apply because he has newly discovered evidence that he is actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits. Calvin did not raise these claims below, and we decline to consider them in the first instance. See *McNelson v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

³To the extent Calvin presents claims or facts in his informal brief that were not previously presented in the proceedings below, we decline to consider them in the first instance on appeal. See *id.*

cc: Hon. Jacqueline M. Bluth, District Judge
Ronald O'Neal Calvin
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk