

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KRISTIAN HEINZ WALTERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87715-COA

FILED

SEP 19 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY _____
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kristian Heinz Walters appeals from a district court order granting a motion to dismiss a postconviction petition for a writ of habeas corpus filed on April 4, 2022, and supplement. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Walters contends the district court erred by dismissing his petition and supplement without holding an evidentiary hearing. Walters filed his petition over four years after entry of the judgment of conviction in district court case no. CR17-0170 on June 7, 2017.¹ Thus, Walters' petition

¹Walters did not appeal from the judgment of conviction entered in district court case no. CR17-0170. Although Walters filed the instant postconviction habeas petition with respect to judgments entered in three other district court cases, Walters does not challenge the district court's dismissal of his petition with respect to those cases on appeal.

was untimely filed. *See* NRS 34.726(1). Moreover, Walters' petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² *See* NRS 34.810(3).³ Walters' petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(4).

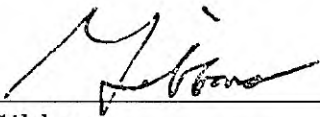
Walters did not allege that he had good cause to excuse the procedural bars in his petition below, and he does not argue good cause on appeal. Rather, Walters contends he would be unduly prejudiced if his claims were not heard on the merits because, if his claims are true, he would be entitled to relief. "Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory." *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). Thus, absent a demonstration of good cause, a procedurally barred postconviction habeas petition is subject to dismissal even if it raises potentially meritorious claims. Because Walters failed to allege good cause to excuse

²*Walters v. State*, Nos. 81321-COA, 81322-COA, 81323-COA, 81324-COA, 2021 WL 1852362 (Nev. Ct. App. May 7, 2021) (Order of Affirmance).


³The 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).

the procedural bars, we conclude the district court did not err by dismissing the petition without holding an evidentiary hearing.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Oldenburg Law Office
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

⁴To the extent Walters contends an evidentiary hearing was warranted to establish why his claims were recently filed, “a petitioner’s explanation of good cause and prejudice for each procedurally barred claim must be made on the face of the petition.” *Chappell v. State*, 137 Nev. 780, 787, 501 P.3d 935, 949 (2021).