

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN PORTER,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN AND
THE STATE OF NEVADA,
Respondents.

No. 89754-COA

FILED

AUG 21 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

JUSTIN D. PORTER,
Appellants,
vs.
BRIAN WILLIAMS, WARDEN AND
THE STATE OF NEVADA,
Respondents.

No. 89852-COA

ORDER OF AFFIRMANCE

Justin Porter appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 6, 2023, and striking supplemental pleadings. These cases were consolidated on appeal. See NRAP 3(b)(2). Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

In his petition, Porter contended the filing of a fourth and fifth amended information violated his constitutional double jeopardy rights and violated NRS 174.085(3) and NRS 178.391. He also contended the State committed prosecutorial misconduct by filing a fourth and fifth amended information because he had already had a jury trial on a third amended

information. These claims could have been presented to the trial court or raised on direct appeal and were therefore procedurally barred pursuant to NRS 34.810(1)(b). Porter did not allege cause or actual prejudice to overcome the procedural bar, and we conclude the district court did not err by denying these claims as procedurally barred.¹

Porter also contended that trial counsel was ineffective because counsel knew the fourth and fifth amended informations violated his double jeopardy rights as well as NRS 174.085(3) and NRS 178.391. Porter did not specify what counsel should have done in light of these alleged violations or why any such action would have had a reasonable probability of producing a different outcome. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating a petitioner alleging ineffective assistance of counsel “must *specifically explain* how his attorney’s performance was objectively unreasonable” and “specifically articulate how counsel’s deficient performance prejudiced him or her” (quotation marks omitted)).

Moreover, the district court found the crimes charged in the fourth amended information concerned different victims than those for which Porter had previously been convicted or acquitted, and the district court’s determination is supported by the record. *See Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005) (“[A] district court’s factual findings will be given deference by this court on appeal, so long as they are

¹To the extent Porter alleges cause or actual prejudice in his briefing on appeal, we decline to consider any such claims on appeal in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

supported by substantial evidence and are not clearly wrong.”). Thus, Porter failed to demonstrate his conviction for crimes charged in the fourth amended information violated his double jeopardy rights, NRS 174.085(3), or NRS 178.391.² See *Jackson v. State*, 128 Nev. 598, 604, 291 P.3d 1274, 1278 (2012) (“The Double Jeopardy Clause protects against three abuses: (1) a second prosecution for the same offense after acquittal, (2) a second prosecution for the same offense after conviction, and (3) multiple punishments for the same offense.”); *Sheriff v. Morfin*, 107 Nev. 557, 558-59, 816 P.2d 453, 454 (1991) (recognizing multiple charges for the same crime do not constitute the “same offense” for the purposes of double jeopardy when the offenses were committed against different victims); see also NRS 174.085(3) (“When a defendant is convicted or acquitted, or has been once placed in jeopardy upon an . . . information . . . , the conviction, acquittal or jeopardy is a bar to another . . . information . . . *for the offense charged in the former . . . of which the defendant might have been convicted . . .*” (emphasis added)); NRS 178.391 (“No person can be subject to a second prosecution for a public offense *for which the person has once been prosecuted and duly convicted or acquitted.*” (emphasis added)). Accordingly, we conclude the district court did not err by denying this claim.

²We note that the fifth amended information merely consolidated the charges in the third and fourth amended informations, and thus, although Porter was previously convicted or acquitted of the charges in the fifth amended information, he was not tried on the fifth amended information itself.

On appeal, Porter argues the district court erred by striking his supplemental petition and memorandum. Porter contends his supplemental petition raised claims that became apparent only after his direct appeal concluded and that could not have been raised in his initial petition. Absent the appointment of counsel, a petitioner may not file additional pleadings “except as ordered by the court.” NRS 34.750(3), (5). Porter does not dispute he did not request or receive the court’s permission to file his supplemental petition and memorandum. Moreover, although Porter raised claims of ineffective assistance of appellate counsel,³ Porter also raised several claims that could have been raised in his initial petition, including claims of trial court error, prosecutorial misconduct, and ineffective assistance of trial counsel. Porter also filed his supplemental petition approximately 19 months after filing his initial petition. After review, we conclude the district court did not abuse its discretion in striking Porter’s supplemental pleadings. Thus, to the extent Porter reasserts any of the claims raised therein in his briefing on appeal, we decline to consider these claims in the first instance. See *State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

³To the extent Porter alleged appellate counsel was ineffective for failing to raise claims of ineffective assistance of trial counsel on direct appeal, we note that “[t]his court has repeatedly declined to consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless.” *Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006).

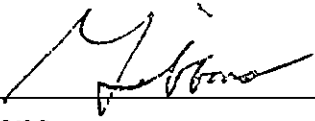
In light of the foregoing,⁴ we

ORDER the judgment of the district court AFFIRMED.



, C.J.

Bulla



, J.

Gibbons



, J.

Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge
Justin D. Porter
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁴Insofar as Porter raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief. We have also reviewed Porter's motion filed on August 18, 2025, in which he asserts the State confessed error by failing to properly respond to the arguments contained within his opening brief. However, we determine the State in its answering brief sufficiently responded to Porter's arguments and did not confess error. Accordingly, we deny the motion.