

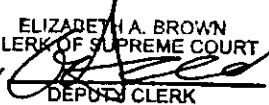
IN THE SUPREME COURT OF THE STATE OF NEVADA

VALENTIN ZUNIGA,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 89400

FILED

NOV 20 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Appellant Valentin Zuniga argues the district court erred in denying the postconviction habeas petition without conducting an evidentiary hearing. We disagree and affirm.

In 2011, Zuniga was convicted of first-degree murder with use of a deadly weapon and discharging a firearm at or into a structure, vehicle, aircraft, or watercraft. This court affirmed the judgment of conviction. *Zuniga v. State (Zuniga I)*, No. 58267, 2012 WL 5991577 (Nev. Nov. 29, 2012) (Order of Affirmance). Zuniga filed this petition over ten years after issuance of the remittitur on direct appeal. Zuniga's petition thus was untimely. NRS 34.726(1). Moreover, Zuniga's petition was successive under NRS 34.810(3) because Zuniga previously filed a postconviction habeas petition that was denied on the merits. *Zuniga v. State (Zuniga II)*, No. 75213, 2019 WL 6830813 (Nev. Dec. 12, 2019) (Order of Affirmance). And this petition constitutes an abuse of the writ to the extent Zuniga raises

claims not previously litigated. NRS 34.810(1)(b), (3). Accordingly, the petition was procedurally barred absent a demonstration of good cause and actual prejudice. NRS 34.726(1); NRS 34.810(1)(b), (3), (4). Further, because the State specifically pleaded laches, Zuniga was required to overcome the rebuttable presumption of prejudice to the State. NRS 34.800(2).

Zuniga argues he had good cause to overcome the procedural bars. To establish good cause, “a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules.” *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). “An impediment external to the defense may be demonstrated by a showing that the factual or legal basis for a claim was not reasonably available to counsel, or that some interference by officials, made compliance impracticable.” *Id.* (citation modified).

First, Zuniga argues he had good cause because first postconviction counsel provided ineffective assistance. Zuniga was not entitled to the effective assistance of postconviction counsel in this noncapital case, and thus the procedural bars may not be excused on this basis. *See Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014) (concluding that claims of ineffective assistance of postconviction counsel in noncapital cases do not constitute good cause for a successive petition because there is no entitlement to appointed counsel). And Zuniga may not evade the procedural bars by styling the ineffective-assistance claim as a due process claim.

Second, Zuniga argues he had good cause because his claim depends on new evidence, specifically the details of Zuniga’s personal history. These details, however, were part of Zuniga’s life and always

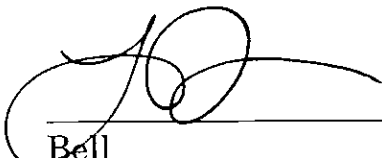
available to him. Thus, this evidence was reasonably available to have been raised in a timely petition, and Zuniga did not demonstrate an impediment external to the defense prevented him from raising it in a timely manner. *See Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506 (explaining an allegation of good cause “sufficiently explain[s] why a petition was filed beyond the statutory time period” and “a claim or allegation that was reasonably available to the petitioner during the statutory time period would not constitute good cause to excuse the delay”). Moreover, the claim that trial counsel was ineffective in failing to adequately prepare and present mitigation evidence was already presented in Zuniga’s first habeas petition. *See Zuniga II*, 2019 WL 6830813, at *2. None of the information presented in the successive petition is substantially new or different. And when affirming the order denying the previous petition, this court concluded Zuniga “did not demonstrate deficient performance or prejudice.” *Id.* Thus, in addition to the procedural bars under NRS chapter 34, the claim was barred by the law-of-the-case doctrine, which “cannot be avoided by a more detailed and precisely focused argument.” *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

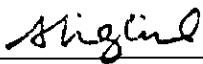
As Zuniga has not demonstrated good cause to overcome the procedural bars, the district court did not err in denying the petition as procedurally barred without conducting an evidentiary hearing. *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (noting that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory”); *see also Rubio v. State*, 124 Nev. 1032, 1046 n.53, 194 P.3d 1224, 1234 n.53 (2008) (noting a district court need not conduct an evidentiary hearing concerning claims that are

procedurally barred when the petitioner cannot overcome the procedural bars). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Jacqueline M. Bluth, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk