

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERRILL J. VOLPICELLI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91064-COA

FILED

JAN 13 2026

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

ORDER OF AFFIRMANCE

Ferrill J. Volpicelli appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on December 31, 2024.¹ Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Volpicelli filed his petition more than 19 years after issuance of the remittitur on direct appeal on July 26, 2005. *Volpicelli v. State*, Docket No. 43203 (Order of Affirmance, June 29, 2005). Thus, Volpicelli's petition was untimely filed. *See* NRS 34.726(1). Moreover, Volpicelli's petition was successive because he previously filed several postconviction petitions for a writ of habeas corpus, one of which was decided on the merits.² *See* NRS 34.810(1)(b)(2); NRS 34.810(3). Volpicelli's petition was procedurally

¹Volpicelli originally filed his petition in the Eleventh Judicial District court on December 31, 2024. It was transferred and filed in the Second Judicial District Court on March 10, 2025.

²*See Volpicelli v. State*, No. 85851-COA, 2023 WL 4056082 (Nev. Ct. App. Jun. 16, 2023) (Order of Affirmance); *Volpicelli v. State*, No. 70126-COA, 2017 WL 2735765 (Nev. Ct. App. Jun. 14, 2017) (Order of Affirmance); *Volpicelli v. State*, Docket No. 51622 (Order of Affirmance, December 3, 2009).

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

Volpicelli did not allege good cause and prejudice in his petition, and he does not argue on appeal that the district court erred by denying his postconviction habeas petition as procedurally barred. Rather, Volpicelli argues he is not challenging his amended judgment of conviction as stated by the district court in its order. Instead, he claims he is challenging an order filed on June 1, 2004, that declared him a habitual criminal. Volpicelli also argues the Eleventh Judicial District Court was the correct court to consider his petition as he was challenging his computation of time served because of “unjustifiable and unconstitutional determinations which prolonged his (1) confinement and (2) parole eligibility.”

A postconviction petition for a writ of habeas corpus is limited to challenges to a person’s conviction or sentence or to the computation of time served pursuant to a judgment of conviction. *See* NRS 34.724(1). The order filed on June 1, 2004, was not a conviction or a sentence.³ And the claims raised in the instant postconviction habeas petition challenged the sentence imposed for Volpicelli’s habitual criminal adjudication and was not a challenge to the computation of time served pursuant to a judgment of conviction. *See* NRS 34.738(1) (“A petition that challenges the validity of a judgment of conviction or sentence must be filed in the clerk of the district court for the county in which the conviction occurred.”).⁴ Thus, the Second

³We note Volpicelli was adjudicated to be a habitual criminal in both his original judgment of conviction filed on April 1, 2004, and his amended judgment of conviction filed on June 18, 2013.

⁴Volpicelli was convicted in the Second Judicial District. Further, to the extent Volpicelli relies on out-of-state caselaw to argue a person can

Judicial District Court was the correct court to consider Volpicelli's petition. Therefore, we conclude the district court did not err by denying Volpicelli's postconviction habeas petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Ferrill Joseph Volpicelli
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

challenge a habitual criminal adjudication in the jurisdiction where the person is incarcerated, those cases do not control, especially where Nevada has a specific statute requiring challenges to the sentence imposed be filed in the jurisdiction where the conviction occurred.