IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD ALEX STEVENSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63028

FILED

JAN 15 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Ronald Alex Stevenson's post-conviction petition for a writ of habeas corpus. Tenth Judicial District Court, Churchill County; Charles M. McGee, Senior Judge.

Stevenson's petition was untimely and successive, however, the district court denied the petition based on the law-of-the-case doctrine pursuant to *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 232-33, 112 P.3d 1070, 1075 (2005), and *Hall v. State*, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975). Stevenson contends that the district court erred by denying his petition.[1] We disagree.

[1]Stevenson improperly "incorporates by reference his petition for post conviction relief as if set forth fully herein." Appellants are not allowed to incorporate by reference documents filed in the district court "or refer the Supreme Court to such briefs or memoranda for the arguments on the merits of the appeal." NRAP 28(e)(2); *Thomas v. State*, 120 Nev. 37, 43 n.3, 83 P.3d 818, 822 n.3 (2004).

The district court erred by denying Stevenson's petition based on the law-of-the-case doctrine. Stevenson's petition was untimely because it was filed more than seven years after we resolved his direct appeal. *See* NRS 34.726(1); *Stevenson v. State*, Docket No. 43706 (Order of Affirmance, January 7, 2005). Stevenson's petition was also successive. *See* NRS 34.810(2); *see generally Stevenson v. State*, Docket No. 46795 (Order of Affirmance, September 12, 2006). Further, to the extent any part of Stevenson's argument below could be considered newly raised, it constituted an abuse of the writ. *See* NRS 34.810(1)(a); NRS 34.810(2)-(3); *State v. Greene*, 129 Nev. ___, ___ n.6, 307 P.3d 322, 326 n.6 (2013). Because Stevenson failed to demonstrate good cause, prejudice, or a miscarriage of justice, and his actual-innocence claim lacked merit, *see Bousley v. United States*, 523 U.S. 614, 623-24 (1998) (to demonstrate actual innocence when conviction stems from a guilty plea, a petitioner must demonstrate that he is factually innocent of the charges to which he pleaded guilty and any more serious charges forgone during the plea bargaining process), the district court should have denied Stevenson's petition as procedurally barred. *See* NRS 34.726(1); *Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996); *see also Riker*, 121 Nev. at 236, 112 P.3d at 1077 (application of procedural default rules is mandatory). We conclude that the district court reached the right result, albeit for the wrong reason. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) ("If a judgment or order of a trial court reaches the right

result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[2]

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Cherry

cc: Hon. Thomas L. Stockard, District Judge
Hon. Charles M. McGee, Senior Judge
The Law Office of Jacob N. Sommer
Churchill County District Attorney/Fallon
Attorney General/Carson City
Churchill County Clerk

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[2]The fast track statement, response, and reply do not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because the text in the body of the briefs is not double-spaced. The fast track statement and reply fail to comply with NRAP 3C(h)(1) because the footnotes are not "in the same size and typeface as the body of the brief," NRAP 32(a)(5). Additionally, the fast track statement submitted by Stevenson refers to matters in the record without adequate citation to the appendix. *See* NRAP 3C(e)(1)(C). Counsel for the parties are cautioned that the failure to comply with the briefing requirements in the future may result in the imposition of sanctions. *See* NRAP 3C(n).