

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN,  
Respondent.

No. 69900

**FILED**

**JUN 21 2016**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.<sup>1</sup> Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Steven Voss filed his petition on April 1, 2015, nearly 15 years after issuance of the remittitur on direct appeal on June 20, 2000. *Voss v. State*, Docket No. 32830 (Order Vacating in Part and Affirming in Part, May 24, 2000). Thus, Voss' petition was untimely filed. See NRS 34.726(1). Voss' petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. See *id.* Moreover, because the State specifically pleaded laches, Voss was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

Voss claims he has good cause to raise his ineffective assistance of trial counsel claim because the district court erroneously found in his first timely postconviction petition that Voss waived this claim because the underlying claim could have been raised on direct

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

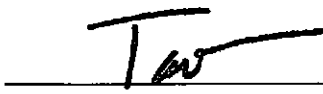
16-900723

appeal. Voss fails to demonstrate good cause because, while it does appear the district court denied this claim in his first petition on erroneous grounds, Voss' remedy was to raise the claim on appeal from the denial of his first petition. Voss has not alleged ineffective assistance of postconviction counsel for failure to raise the claim on appeal and we note a claim of ineffective assistance of postconviction counsel would not provide relief because Voss was not entitled to the effective assistance of postconviction counsel. *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996); *see also Brown v. McDaniel*, 130 Nev. \_\_\_, \_\_\_, 331 P.3d 867, 871-72 (2014).

Further, we conclude Voss failed to overcome the presumption of prejudice to the State. Therefore, the district court properly dismissed the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

  
Gibbons, C.J.

  
Tao, J.

  
Silver, J.

cc: Hon. Jerome M. Polaha, District Judge  
Steven Floyd Voss  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk