

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PETER JASON HELFRICH,  
Appellant,  
vs.  
BRIAN WILLIAMS, WARDEN; AND  
THE STATE OF NEVADA,  
Respondents.

No. 73701

FILED

APR 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Peter Jason Helfrich appeals from an order of the district court dismissing the postconviction petitions for a writ of habeas corpus filed on October 10, 2016, and November 7, 2016.<sup>1</sup> Fifth Judicial District Court, Nye County; David R. Gamble, Senior Judge.

Helfrich filed his petitions nearly three years after entry of the judgment of conviction on December 3, 2013.<sup>2</sup> Thus, Helfrich's petitions were untimely filed. *See* NRS 34.726(1). Moreover, Helfrich's petitions were successive because he had previously filed a postconviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised

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

<sup>2</sup>Helfrich did not appeal from his judgment of conviction.

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claims new and different from those raised in his previous petition.<sup>3</sup> See NRS 34.810(2). Helfrich's petitions were procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

First, Helfrich claimed he had good cause to overcome the procedural bars because his claims attacked the subject matter jurisdiction of the district court.<sup>4</sup> Specifically, he claimed the district court lacked subject matter jurisdiction over his case because the Nevada Revised Statutes were improperly enacted because they lack an enacting clause, the bill creating them failed the single subject rule, the bill did not comply with Joint Standing Rule 7, and the resolutions were never ratified by a vote of the citizens.

Helfrich failed to demonstrate good cause to overcome the procedural bars because his claims regarding the Nevada Revised Statutes were available to be raised in a timely petition.<sup>5</sup> See *Hathaway v. State*, 119 Nev. 248, 71 P.3d 503 (2003); *Phelps v. Dir. Nev. Dep't. of Prisons*, 104 Nev. 656, 764 P.2d 1303 (1988). Helfrich also failed to demonstrate his claims regarding the Nevada Revised Statutes implicated the jurisdiction of the

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<sup>3</sup>*Helfrich v. State*, Docket No. 68538 (Order of Affirmance, February 17, 2016).

<sup>4</sup>Helfrich's two petitions raised identical claims.

<sup>5</sup>To the extent Helfrich claimed he has tried to file documents and the district court clerk refused to file these documents, he failed to support this claim with specific facts that, if true, would entitle him to relief. See *Hargrove v. State*, 100 Nev. 498, 686 P.2d 222 (1984).

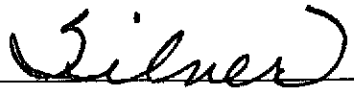
district court. See Nev. Const. art. 6, § 6; NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)). Helfrich conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes merely “constitute the official version of the Statutes of Nevada and may be cited as *prima facie* evidence of the law.” See NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are contained in the Statutes of Nevada. Therefore, Helfrich failed to demonstrate the district court lacked subject matter jurisdiction over him.


Second, Helfrich claimed he was actually innocent because he acted in self-defense and because of the “castle doctrine.” He also claimed he was actually innocent because the Nevada Revised Statutes were not properly enacted. Helfrich did not demonstrate actual innocence because he failed to show that “it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence.” *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); see also *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001). Further, Helfrich’s claim regarding the Nevada Revised Statutes is a claim of legal innocence rather than factual innocence, and was therefore improper. See *Calderon*, 523 U.S. at 559; *Pellegrini*, 117 Nev. at 887, 34 P.3d at 537.

Finally, Helfrich claimed the State silently acquiesced to the claims raised in his petition because it failed to respond to his “conditional acceptance for value upon proof of claim” which allegedly required the State

to disprove the claims raised in his petition. This claim lacks merit. The burden is on Helfrich to plead and prove facts to overcome the procedural bars, which he did not do. *See State v. Haberstroh*, 119 Nev. 173, 181, 69 P.3d 676, 681 (2003). Accordingly, we conclude the district court did not err by dismissing the petitions as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

  
Silver, C.J.

  
Tao, J.

  
Gibbons, J.

cc: Hon. David R. Gamble, Senior Judge  
Peter Jason Helfrich  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk

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<sup>6</sup>We have reviewed all documents Helfrich has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Helfrich has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.