

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD CURTIS WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73712

FILED

MAY 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 2
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ronald Curtis Williams appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Williams filed his petition on May 1, 2017, almost 11 years after issuance of the remittitur on direct appeal on July 25, 2006. *Williams v. State*, Docket No. 45904 (Order of Affirmance, June 29, 2006). Thus, Williams' petition was untimely filed. See NRS 34.726(1). Moreover, Williams' petition was successive because he had previously filed two postconviction petitions for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.² See NRS 34.810(2). Williams' petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3). Moreover, because the State

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

²*Williams v. State*, Docket No. 59389 (Order of Affirmance, May 9, 2012); *Williams v. State*, Docket No. 49648 (Order Affirming in Part, Reversing in Part and Remanding, June 13, 2008).

specifically pleaded laches, Williams was required to overcome the rebuttable presumption of prejudice. *See* NRS 34.800(2).

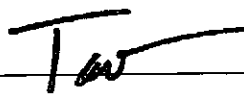
Williams appears to assert he had good cause because he has newly discovered evidence his trial-level counsel had mental health issues stemming from a brain injury. Williams alleged the information regarding his counsel's mental health was revealed during 2013 court proceedings involving that counsel. Williams failed to demonstrate this issue amounted to good cause. Williams did not explain why he was unable to raise any of his underlying claims in his initial, timely-filed petition. In addition, Williams did not explain why he waited approximately four years following the revelation of his counsel's mental health issues to file the instant petition. Accordingly, Williams did not demonstrate an impediment external to the defense prevented him from complying with the procedural bars. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Williams also did not overcome the presumption of prejudice to the State. Therefore, we conclude the district court did not err by denying the petition as procedurally barred.

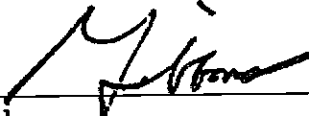
Next, Williams argues the district court erred by declining to conduct an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record and, if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046 & n.53, 194 P.3d 1224, 1233- 34 & 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). The district court concluded Williams' claims did not meet that standard and the record before this court reveals the district court's conclusions in this regard were proper.

Finally, Williams argues the district court erred by denying his request for the appointment of postconviction counsel. The appointment of postconviction counsel was discretionary in this matter. See NRS 34.750(1). After a review of the record, we conclude the district court did not abuse its discretion in this regard as this matter was not sufficiently complex so as to warrant the appointment of postconviction counsel. See *Renteria-Novoa v. State*, 133 Nev. ___, ___ 391 P.3d 760, 760-61 (2017). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Ronald Curtis Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³We have reviewed the August 24, 2017, petition for a writ of habeas corpus Williams filed in this appeal, and we conclude no relief is warranted. To the extent Williams has attempted to present claims or facts in that petition which were not previously presented in the proceedings below, we decline to consider them in the first instance.