

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT LESLIE STOCKMEIER,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 73040

FILED

JUN 13 2018

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

ORDER OF AFFIRMANCE

Robert Leslie Stockmeier appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Tenth Judicial District Court, Churchill County; Robert E. Estes, Senior Judge.

Stockmeier filed his petition on December 19, 2016, more than 26 years after entry of the judgment of conviction on October 4, 1990.² Thus, Stockmeier's petition was untimely filed.³ See NRS 34.726(1). Moreover, Stockmeier's petition was successive because he had previously filed several postconviction petitions for a writ of habeas corpus.⁴ See NRS 34.810(2).

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

²Stockmeier did not pursue a direct appeal.

³Stockmeier's petition was also untimely from the January 1, 1993, effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, § 33, at 92; *Pellegrini v. State*, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).

⁴*Stockmeier v. Mallory*, Docket No. 37807 (Order of Affirmance, March 27, 2002); *Stockmeier v. State*, Docket No. 22598 (Order Dismissing Appeal, January 24, 1992).

Stockmeier's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).


Stockmeier argued the procedural bars did not apply because *Blankenship v. State*, 132 Nev. ___, 375 P.3d 407 (2016), provided good cause to assert that the presentence investigation report improperly did not contain information related to Stockmeier's psychological evaluation because his counsel concealed the evaluation. However, Stockmeier raised the underlying claim in his first postconviction petition and the Nevada Supreme Court concluded Stockmeier did not demonstrate he was entitled to relief. *Stockmeier v. State*, Docket No. 22598 (Order Dismissing Appeal, January 24, 1992). Stockmeier has already raised the underlying claim and it was rejected on the merits, and thus, he did not demonstrate that the factual or legal basis for this claim was not reasonably available to him. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, we conclude the district court did not err by denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.



, C.J.

Silver



, J.

Tao



, J.

Gibbons

cc: Hon. Robert E. Estes, Senior Judge
Robert Leslie Stockmeier
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk