

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RACHEL PASHMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72001-COA

**FILED**

JAN 17 2019

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

*ORDER OF AFFIRMANCE*

Rachel Pashman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Pashman filed her petition on May 15, 2016, more than two years after entry of the judgment of conviction on August 30, 2013.<sup>1</sup> Thus, Pashman's petition was untimely filed. *See* NRS 34.726(1). Moreover, Pashman's petition was successive because she had previously filed a postconviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as she raised claims new and different from those raised in her previous petition.<sup>2</sup> *See* NRS 34.810(2). Pashman's petition was

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<sup>1</sup>Pashman did not pursue a direct appeal.

<sup>2</sup>Pashman filed her first postconviction petition for a writ of habeas corpus on July 9, 2014. On October 23, 2014, the district court entered an

procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3).

Pashman appeared to assert her May 15, 2016, petition should be construed to be a supplement to her previous petition. However, Pashman's first petition had already been denied by the district court before Pashman filed the instant petition. Accordingly, the May 15, 2016, petition was not merely a supplement to the previous petition; rather, it initiated an entirely new postconviction proceeding. Pashman therefore had the burden to demonstrate good cause to overcome the procedural bars, *see State v. Haberstroh*, 119 Nev. 173, 181, 69 P.3d 676, 681 (2003), but she did not attempt to do so. As Pashman did not overcome the procedural bars, we conclude the district court properly denied the petition.

Next, Pashman argues the district court erred by denying the petition without conducting 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 her 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  


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order denying the petition, and Pashman did not appeal from the denial of her petition.

Pashman's claims did not meet that standard and the record before this court reveals the district court's conclusions in this regard were proper. Therefore, the district court properly denied the petition without conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, A.C.J.  
Douglas

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

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<sup>3</sup>Pashman also argues the district court's order denying the petition failed to address all of her claims and, for that reason, this court lacks jurisdiction to consider this appeal. However, this claim lacks merit as the district court's order denied Pashman's petition in its entirety. See *Sandstrom v. Second Judicial Dist. Court*, 121 Nev. 657, 659, 119 P.3d 1250, 1252 (2005) (explaining a final order disposes of all issues and leaves nothing for future consideration). To the extent Pashman asserts the district court's order denying the petition fails to contain specific findings as required by NRS 34.830(1), we conclude the district court's order contains findings with sufficient specificity to permit this court to appropriately review its decision on appeal.

cc: Hon. Valerie Adair, District Judge  
Matthew D. Carling  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk