

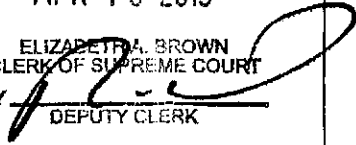
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD ALEX STEVENSON,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 76747-COA

FILED

APR 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ronald Alex Stevenson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 25, 2018.¹ Tenth Judicial District Court, Churchill County; Charles M. McGee, Senior Judge.

Stevenson filed his petition more than 13 years after issuance of the remittitur on direct appeal on March 29, 2005. *See Stevenson v. State*, Docket No. 43706 (Order of Affirmance, January 7, 2005). Stevenson's petition was therefore untimely filed. *See* NRS 34.726(1). Stevenson's petition was also successive.² *See* NRS 34.810(2). Stevenson's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice, *see* NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3), or a showing that he was actually innocent such that a failure to consider his

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

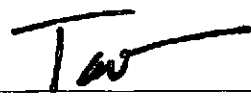
²*See Stevenson v. State*, Docket No. 63028 (Order of Affirmance, January 15, 2014); *Stevenson v. State*, Docket No. 46795 (Order of Affirmance, September 12, 2006).

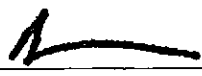
underlying claims on the merit would result in a fundamental miscarriage of justice, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015).

Stevenson claimed he was actually innocent because the statute under which he was convicted, NRS 200.710, is unconstitutional. Stevenson failed to demonstrate actual innocence. He failed to show “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 Mazzan v. Warden*, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996). Nor did Stevenson demonstrate he was actually innocent based on subsequent case law. *See Vosgien v. Persson*, 742 F.3d 1131, 1134 (9th Cir. 2014) (“One way a petitioner can demonstrate actual innocence is to show in light of subsequent case law that he cannot, as a legal matter, have committed the alleged crime.”). Because Stevenson failed to overcome the procedural bars, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³The district court erred by not considering the procedural bars. *See State v. Eighth Judicial Dist. Court*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (“Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory.”). We nevertheless affirm for the reasons stated above. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

cc: Hon. Charles M. McGee, Senior Judge
Ronald Alex Stevenson
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk