

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY MICHAEL STIEGLER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76836-COA

**FILED**

MAY 21 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Gregory Michael Stiegler appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Stiegler filed his petition on May 16, 2018, more than 11 years after issuance of the remittitur on direct appeal on February 7, 2007. *Stiegler v. State*, Docket No. 46245 (Order of Affirmance, January 10, 2007). Thus, Stiegler's petition was untimely filed. *See* NRS 34.726(1). Moreover, Stiegler's petition was 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 claims new and different from those raised in his previous petition.<sup>2</sup> *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Stiegler's

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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

<sup>2</sup>*Stiegler v. State*, Docket No. 63036 (Order of Affirmance, June 12, 2014).

19-22206


petition was 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). Moreover, because the State specifically pleaded laches, Stiegler was required to overcome the rebuttable presumption of prejudice to the State. *See* NRS 34.800(2).


First, Stiegler argued he had good cause because he did not learn of certain claims until his postconviction counsel returned his case paperwork following the completion of the litigation of his previous postconviction petition. However, Stiegler's claims were reasonably available to be raised at an earlier time and he did not demonstrate an impediment to the defense prevented him from raising those claims in a timely manner. *See Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). To the extent Stiegler also claimed his postconviction counsel was ineffective for failing to raise certain claims in his prior petition and this failure constituted good cause for this petition, that claim also did not demonstrate good cause because Stiegler had no statutory right to postconviction counsel, and therefore, had no right to the effective assistance of counsel during the postconviction proceedings. *See Crump v. Warden*, 113 Nev. 293, 303 & n.5, 934 P.2d 247, 253 & n.5 (1997); *Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014).


Second, Stiegler appeared to assert the procedural bars did not apply because he had to exhaust state remedies so that he could proceed in federal court. However, exhaustion of state remedies in order to seek federal court review was insufficient to demonstrate good cause. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229 1230 (1989).

Finally, Stiegler failed to overcome the presumption of prejudice to the State. Therefore, we conclude the district court did not err by denying the petition as procedurally barred. Accordingly, we

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

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Gregory Michael Stiegler  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</sup>We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. See NRS 34.750(1); *Renteria-Nova v. State*, 133 Nev. 75, 76, 391 P.3d 760, 760-61 (2017).