


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VORNELIUS JAMAL PHILLIPS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77472-COA

**FILED**

OCT 08 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Vornelius Jamal Phillips appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Phillips filed his petition on June 15, 2018, more than 14 years after entry of the judgment of conviction on April 27, 2004.<sup>1</sup> Thus, Phillips' petition was untimely filed. *See* NRS 34.726(1). Moreover, Phillips' petition was successive because he had previously filed several 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.<sup>2</sup> *See* NRS 34.810(2). Phillips' 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 specifically pleaded

---

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

<sup>2</sup>*Phillips v. State*, Docket No. 74935 (Order of Affirmance, September 11, 2018); *Phillips v. State*, Docket No. 68281 (Order of Affirmance, April 15, 2016); *Phillips v. State*, Docket No. 52692 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, March 10, 2010).


19-41685


laches, Phillips was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

Phillips requested leave to raise successive claims and stated he had good cause. However, Phillips did not provide explanations as to why he should be permitted to relitigate his previously raised claims and why he did not raise his new claims in his prior petitions. Phillips' unsupported claim of good cause was insufficient to overcome the procedural bars. See *State v. Bennett*, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003) ("To raise a claim in an untimely and/or successive post-conviction habeas petition, the petitioner has the burden of pleading and proving specific facts that demonstrate good cause and prejudice to overcome the procedural bars."). Moreover, Phillips did not overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2). Therefore, the district court did not err by dismissing the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Linda Marie Bell, Chief Judge  
Vornelius Jamal Phillips  
Clark County District Attorney  
Eighth District Court Clerk