

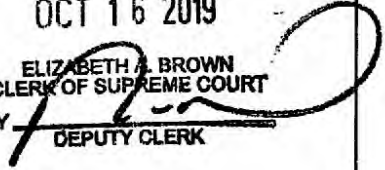
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN DAVID PAMPLIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77530-COA

FILED

OCT 16 2019

ELIZABETH J. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

John David Pamplin appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on August 13, 2018. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Pamplin's petition was filed more than 15 years after the judgment of conviction was entered on October 4, 2002;¹ consequently, it was untimely filed and procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See* NRS 34.726(1). Moreover, because the State specifically pleaded laches, the petition was not justiciable unless Pamplin successfully rebutted the presumption of prejudice to the State. *See* NRS 34.800(2).

In an attempt to show good cause, Pamplin claimed he had newly discovered evidence: transcripts of three district court proceedings that occurred in 2002, a letter he sent to defense counsel on June 30, 2003, and a letter defense counsel sent to him on May 8, 2006. However, "when a petition raises a claim that was not available at the time of a procedural

¹Pamplin did not pursue a direct appeal.


default under NRS 34.726(1), it must be filed within 'a reasonable time' after the basis for the claim becomes available." *Rippo v. State*, 134 Nev. 411, 420, 423 P.3d 1084, 1096 (2018). Here, the district court found the basis for Pamplin's postconviction claims had existed for at least twelve years and twelve years was an unreasonable amount of time to wait before bringing a good cause claim.

We note Pamplin made no attempt to respond to the State's specific plea of laches, and we conclude the district court did not err by dismissing his procedurally barred habeas petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²To the extent Pamplin now claims he is entitled to relief under the fundamental miscarriage of justice standard, he did not raise this claim in the court below and we decline to consider it for the first time on appeal. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

We have reviewed all documents Pamplin has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Pamplin has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.

cc: Hon. Linda Bell, Chief Judge
John David Pamplin
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk