

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY ALLEN HATFIELD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79705-COA

GREGORY ALLEN HATFIELD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79706-COA

FILED

MAY 15 2020

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

ORDER OF AFFIRMANCE

Gregory Allen Hatfield appeals from a single order of the district court denying a postconviction petition for a writ of habeas corpus filed in district court case numbers CR-5117A (Docket No. 79705) and CR-6022 (Docket No. 79706) on August 26, 2019. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Initially, we note that Hatfield was acquitted of the charge in district court case number CR-5117A and, therefore, he could not seek postconviction relief in that case. See NRS 34.724(1) (allowing individuals who have been convicted of a crime and are serving a sentence of imprisonment to file for postconviction relief). As to Hatfield's petition in

district court case number CR-6077, he filed his petition more than 10 years after the remittitur on direct appeal was issued on March 10, 2009. See *Hatfield v. State*, Docket No. 51719 (Order of Affirmance, February 11, 2009). Thus, this petition was untimely filed. See NRS 34.726(1). Moreover, the petition was successive because Hatfield 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.¹ See NRS 34.810(1)(b)(2); NRS 34.810(2). The 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).

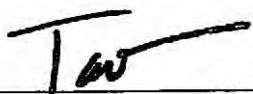
Hatfield claimed he had good cause to overcome the procedural bars because the trial court in CR-5117A erred when instructing the jury. Hatfield claimed this instructional error constituted structural error and demonstrated that he was actually innocent. This claim did not demonstrate good cause. As noted above, Hatfield was acquitted of the

¹*Hatfield v. Warden*, Docket No. 76477-COA (Order of Affirmance, February 14, 2019); *Hatfield, v. Warden*, Docket Nos. 69624-COA, 69625-COA (Order of Affirmance, August 17, 2016); *Hatfield v. State*, Docket Nos. 68078-COA, 68079-COA, 68080-COA (Order of Affirmance, November 19, 2015); *Hatfield v. State*, Docket No. 66480 (Order of Affirmance, January 15, 2015); *Hatfield v. Legrand*, Docket No. 62684 (Order of Affirmance, September 16, 2014); *Hatfield v. Warden*, Docket No. 57351 (Order of Affirmance, September 15, 2011).

charge in CR-5117A. And he failed to demonstrate how the alleged error affected his conviction in CR-6022. Therefore, we conclude the district court did not err by denying Hatfield's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Robert W. Lane, District Judge
Gregory Allen Hatfield
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk