

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL T. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79756-COA

FILED

JUN 12 2020

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

ORDER OF AFFIRMANCE

Michael T. Williams appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Williams filed his petition on June 4, 2019, more than 17 years after issuance of the remittitur on direct appeal on March 12, 2002. *See Williams v. State*, Docket No. 36414 (Order of Affirmance, February 13, 2002). Thus, Williams' petition was untimely filed. *See* NRS 34.726(1). Moreover, Williams' 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.¹ *See* NRS 34.810(1)(b)(2); NRS

¹*Williams v. State*, Docket No. 71469-COA (Order of Affirmance, September 13, 2017); *Williams v. State*, Docket No. 49447 (Order of Affirmance, November 14, 2007); *Williams v. State*, Docket No. 41365 (Order of Affirmance, February 19, 2004). Williams failed to file a timely

34.810(2). Williams' 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, Williams was required to overcome the rebuttable presumption of prejudice to the State. *See* NRS 34.800(2).

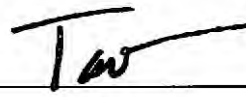
Williams appeared to assert he had good cause because he was not appointed postconviction counsel and he therefore had to rely upon the prison paging system and fellow inmates for legal assistance. Due to those issues, Williams claimed he was unable to discover his underlying claims in a timely manner. The appointment of postconviction counsel in this matter was not statutorily or constitutionally required. *See Brown v. McDaniel*, 130 Nev. 565, 571, 331 P.3d 867, 871-72 (2014). Thus, the failure to appoint postconviction counsel did not provide good cause. Moreover, Williams' reliance upon the prison paging system and fellow inmates for legal assistance did not constitute good cause. *See Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding petitioner's claim of organic brain damage, borderline mental retardation and reliance on the assistance of an inmate law clerk unschooled in the law did not constitute good cause for the filing of a successive postconviction petition), *superseded by statute on other grounds as stated in State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681 (2003). Finally, Williams failed to overcome the presumption of prejudice to the State. *See* NRS 34.800(2).

notice of appeal from a petition filed on March 13, 2006. *See Williams v. State*, Docket No. 47769 (Order Dismissing Appeal, November 9, 2006).

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.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerry A. Wiese, District Judge
Michael T. Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk