

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN ANTHONY HAAG,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 80539-COA

FILED

MAY 14 2021

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

ORDER OF AFFIRMANCE

Steven Anthony Haag appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Haag argues the district court erred by dismissing his petition as procedurally barred. Haag filed his petition on August 28, 2018, almost 15 years after entry of the judgment of conviction on November 20, 2003.¹ Thus, Haag's petition was untimely filed. *See* NRS 34.726(1). Moreover, Haag's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised claims new and

¹Haag did not pursue a direct appeal.

different from those raised in his previous petitions.² See NRS 34.810(2). Haag's petition was procedurally barred absent a demonstration of good cause and actual prejudice, see NRS 34.726(1); NRS 34.810(3), or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, see *Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015).

First, Haag argued he had good cause because the State failed to provide him with the results of DNA tests. However, this court has already considered and rejected this good-cause claim. *Haag v. State*, Docket No. 69768-COA (Order of Affirmance, December 28, 2016). As Haag already raised this good-cause claim and it was rejected by this court, the doctrine of the law of the case prevents further consideration of this claim. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Therefore, Haag is not entitled to relief based upon this good-cause claim.

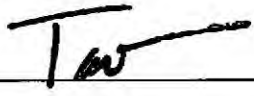
Second, Haag appeared to argue the procedural bars should not apply because he was actually innocent as the DNA test results would exonerate him. However, during an evidentiary hearing conducted in 2005, Haag's trial-level counsel testified the State disclosed the DNA test results and the results were not favorable for the defense. Therefore, Haag did not demonstrate actual innocence because he failed to show that "it is more

²*Haag v. State*, Docket No. 69768-COA (Order of Affirmance, December 28, 2016); *Haag v. Warden*, Docket No. 60277 (Order of Affirmance, October 8, 2012); *Haag v. State*, Docket No. 57296 (Order of Affirmance, May 9, 2011); *Haag v. State*, Docket No. 47924 (Order of Affirmance, February 28, 2007).

likely than not that no reasonable juror would have convicted him in light of . . . new evidence.” *Calderon v. Thompson*, 523 U.S. 538, 559 (1998); see also *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001), abrogated on other grounds by *Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018). We therefore conclude 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. Connie J. Steinheimer, District Judge
Tracie Lindeman
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk