

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,  
Appellant,  
vs.  
RENEE BAKER, WARDEN; AND THE  
STATE OF NEVADA,  
Respondents.

No. 84284-COA

**FILED**

JUL 20 2022

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

*ORDER OF AFFIRMANCE*

Justin Odell Langford appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Langford claims the district court erred by denying his January 28, 2022, petition. Langford filed his petition more than four years after issuance of the remittitur on direct appeal on July 24, 2017. *See Langford v. State*, No. 70536, 2017 WL 2815087 (Nev. June 27, 2017) (Order of Affirmance). Thus, Langford's petition was untimely filed. *See* NRS 34.726(1). Moreover, Langford'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 different from those raised in his previous petitions.<sup>1</sup> *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Langford's petition was

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<sup>1</sup>*See Langford v. State*, No. 83032-COA, 2021 WL 5370074, (Nev. Ct. App. Nov. 17, 2021) (Order of Affirmance); *Langford v. State*, No. 78144-COA, 2019 WL 3812825, (Nev. Ct. App. Aug. 13, 2019) (Order of Affirmance); *Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance).

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), 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, Langford appeared to claim that the procedural bars do not apply to his petition because the trial court lost jurisdiction over this matter when the State improperly amended the information and the trial court failed to properly administer the oath to the members of the jury. Langford also appeared to assert that the trial court lacked jurisdiction to convict him because the lewdness statute is unconstitutionally overbroad. Langford's claims did not implicate the jurisdiction of the courts. *See* Nev. Const. art. 6, § 6(1); NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the courts’ statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)). Therefore, Langford did not demonstrate that the district court erred by denying relief.


Second, Langford claimed that the State withheld evidence related to a towel in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). A valid *Brady* claim can constitute good cause and prejudice sufficient to excuse the procedural bars. *State v. Bennett*, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003) (“[P]roving that the State withheld the evidence generally establishes cause, and proving that the withheld evidence was material establishes prejudice.”). The record demonstrated that the State disclosed prior to trial information concerning the towel that it collected at the scene. Langford thus did not meet his burden to plead and prove specific facts to establish that the State actually withheld exculpatory evidence. *See id.*

Therefore, Langford did not demonstrate that the district court erred by denying relief.

Third, Langford claimed that the procedural bars did not apply because he is actually innocent. However, Langford did not demonstrate actual innocence because he failed to show that “it is more 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) (quotation marks omitted); *accord 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). Therefore, Langford did not demonstrate that the district court erred by denying relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Chief Judge, Eighth Judicial District Court  
Eighth Judicial District Court, Department 9  
Justin Odell Langford  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk