

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN ANTHONY HAAG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84797-COA

FILED

OCT 21 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Anthony Haag appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus and a petition requesting genetic marker analysis.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Postconviction petition for a writ of habeas corpus

Haag argues the district court erred by denying his June 14, 2021, petition as procedurally barred without first conducting an evidentiary hearing. Haag filed his petition more than 17 years after entry of the judgment of conviction on November 20, 2003.² 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

¹Haag filed a document entitled "motion of rescission and discharge of plea bargain agreement contract." In light of the nature of the claims that Haag raised, the district court properly construed the document as a postconviction petition for a writ of habeas corpus, *see Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014), and a petition requesting genetic marker analysis, *see* NRS 176.0918.

²Haag did not pursue a direct appeal.

abuse of the writ as he raised claims new and different from those raised in his previous petitions.³ 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). To warrant an evidentiary hearing, a petitioner must raise claims supported by specific allegations that are not belied by the record and, if true, would entitle him to relief. *Rubio v. State*, 124 Nev. 1032, 1046, 194 P.3d 1224, 1233-34 (2008).

First, Haag argued he had good cause because the State and his trial-level counsel did not provide him with the results of DNA tests. However, this court has already considered and rejected this good-cause claim. See *Haag*, No. 69768-COA, 2016 WL 7635433, *1. 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, the district court did not err by denying this good-cause claim without conducting an evidentiary hearing.

Second, Haag appeared to argue that the procedural bars should not apply because he is actually innocent as the DNA test results

³*Haag v. Warden*, No. 80539-COA, 2021 WL 1962227 (Nev. Ct. App. May 14, 2021) (Order of Affirmance); *Haag v. State*, No. 69768-COA, 2016 WL 7635433, (Nev. Ct. App. Dec. 28, 2016) (Order of Affirmance); *Haag v. Warden*, No. 60277, 2012 WL 4807819 (Nev. Oct. 8, 2012) (Order of Affirmance); *Haag v. State*, No. 57296, 2011 WL 1813267 (Nev. May 9, 2011) (Order of Affirmance); *Haag v. State*, Docket No. 47924 (Order of Affirmance, February 28, 2007).

provided favorable evidence. However, this court has already considered and rejected this claim. *See Haag*, No. 80539-COA, 2021 WL 1962227, *1. As Haag already raised this claim and it was rejected by this court, the doctrine of the law of the case prevents further consideration of this claim. *See Hall*, 91 Nev. at 315-16, 535 P.2d at 798-99. Therefore, the district court did not err by denying this actual-innocence claim without conducting an evidentiary hearing. Accordingly, the district court did not err by denying Haag's petition as procedurally barred.

Next, Haag argues the district court erred by denying his petition without appointing postconviction counsel. NRS 34.750(1) provides for the discretionary appointment of postconviction counsel if the petitioner is indigent and the petition is not summarily dismissed. Here, the district court found the petition was procedurally barred pursuant to NRS 34.810(2) and declined to appoint counsel. Because the petition was subject to summary dismissal, *see* NRS 34.745(4), we conclude the district court did not abuse its discretion by declining to appoint counsel.

Petition requesting genetic marker analysis

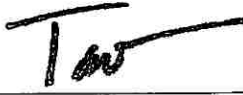
Next, Haag appeared to request additional DNA marker analysis for samples collected from the crime scene. Haag asserted that he recently reviewed the DNA marker analysis conducted during the trial-level proceedings and he believed a new analysis of the sample should be performed.

However, Haag did not reasonably articulate a rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence. Haag also did not identify the type of genetic marker analysis he sought. In addition, Haag did not provide a

statement asserting that the type of genetic marker analysis he sought was not available or, if it was available, that the failure to request genetic marker analysis before he was convicted was not a result of a strategic or tactical decision as part of his trial-level attorney. Haag thus did not meet the requirements for obtaining a genetic marker analysis. See NRS 176.0918(3)(b), (c), (e). Therefore, we conclude the district court did not abuse its discretion by denying Haag's petition. See NRS 176.0918(4)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Connie J. Steinheimer, District Judge
Steven Anthony Haag
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk