

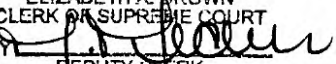
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALENTIN ANTHONY CORRALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86885-COA

FILED

DEC 14 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Valentin Anthony Corrales appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on March 7, 2023. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Corrales filed his petition more than four years after issuance of the remittitur on direct appeal on January 2, 2019. *See Corrales v. State*, No. 72795, 2018 WL 6433117 (Nev. Dec. 4, 2018) (Order of Affirmance). Thus, Corrales' petition was untimely filed. *See* NRS 34.726(1). Moreover, Corrales' 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.¹ *See* NRS

¹*See Corrales v. State*, No. 84102-COA, 2022 WL 17592182 (Nev. Ct. App. Dec. 12, 2022) (Order of Reversal and Remand). Corrales filed a second postconviction habeas petition on May 9, 2022. Corrales did not appeal from the dismissal of this petition.

34.810(1)(b)(2); NRS 34.810(3).² Corrales' 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(4), 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).

Corrales argues the district court erred by denying his claim that he could overcome the procedural bars because he had newly discovered evidence that demonstrated he was actually innocent. He also argues the district court should have held an evidentiary hearing on this claim.

To demonstrate a fundamental miscarriage of justice sufficient to overcome the procedural bars, a petitioner must make a colorable showing of actual innocence. *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001), *abrogated on other grounds by Ripppo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018); *see Bousley v. United States*, 523 U.S. 614, 623 (1998). A showing of actual innocence requires a petitioner to demonstrate 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) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); *see also Pellegrini*, 117 Nev. at 887, 34 P.3d at 537. Such evidence may include evidence that "significantly undermines or impeaches the credibility of witnesses presented at trial, if all the evidence, including new evidence, makes it 'more likely than not that no reasonable juror would have found

²The subsections within NRS 34.810 were recently renumbered. We note the substance of the subsections cited herein was not altered. *See* A.B. 49, 82d Leg. (Nev. 2023).

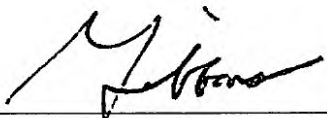
[the] petitioner guilty beyond a reasonable doubt.” *Gandarela v. Johnson*, 286 F.3d 1080, 1086 (9th Cir. 2002) (quoting *Schlup*, 513 U.S. at 327). To warrant an evidentiary hearing, a petitioner’s actual-innocence claim must be supported by specific factual allegations that are not belied by the record and, if true, would entitle them to relief. *See Berry*, 131 Nev. at 967, 363 P.3d at 1154-55.

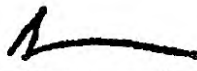
Corrales was convicted of sexually assaulting and committing lewd acts with his biological children in 2015, and his stepdaughter testified at the trial that led to his convictions. Corrales claimed a police report from 1995 constituted newly discovered evidence of his actual innocence. In that police report, a police officer stated he could not substantiate the claims that Corrales had abused his stepdaughter because the stepdaughter and her mother stopped cooperating. Corrales claimed this report impeached his stepdaughter’s trial testimony and demonstrated his innocence. Not only did the police report refer to different allegations than those he was tried on, but it did not significantly undermine or impeach the credibility of the stepdaughter’s testimony. And considering all of the evidence, including the testimony of his biological children and the alleged new evidence, Corrales failed to demonstrate it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt. We therefore conclude the district court did not err by dismissing Corrales’ petition for being procedurally barred without first conducting an evidentiary hearing.

Corrales also argues the district court erred by failing to appoint counsel after he requested the appointment of 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(3) and did not appoint counsel. Because the petition was subject to summary dismissal, *see* NRS 34.745(3), we conclude the district court did not abuse its discretion by not appointing counsel. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Valentin Anthony Corrales
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk