

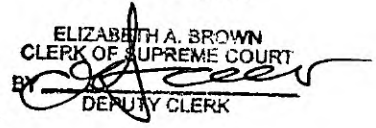
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARVIN MORAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86087-COA

FILED

JAN 18 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Marvin Moran appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 6, 2021. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

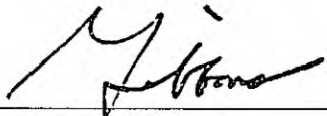
Moran filed his petition more than three years after entry of the remittitur on direct appeal on July 23, 2018. *See Moran v. State*, No. 67881, 2018 WL 3216887 (Nev. June 25, 2018) (Order Affirming in Part, Reversing in Part, and Remanding). Thus, Moran's petition was untimely filed. *See* NRS 34.726(1). Moreover, Moran's petition constituted an abuse of the writ to the extent he raised claims new and different from those raised in his previous petition.¹ *See* NRS 34.810(1)(b)(2); NRS 34.810(3).² Moran's 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).

¹*See Moran v. State*, No. 80328-COA, 2020 WL 6336062 (Nev. Ct. App. Oct. 28, 2020) (Order of Affirmance).

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).

Moran suggested that he had good cause to overcome the procedural bars because he needed to exhaust his claims in state court before a federal court would consider them. Filing a procedurally barred petition for exhaustion purposes does not constitute good cause because Moran's claims were reasonably available to be raised in a timely petition. *See Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), *abrogated by statute on other grounds as recognized by State v. Huebler*, 128 Nev. 192, 197 n.2, 275 P.3d 91, 95 n.2 (2012). Therefore, Moran failed to demonstrate that exhaustion constituted good cause, and 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.
Bulla


_____, J.
Westbrook

cc: Hon. Carli Lynn Kierny, District Judge
Marvin Moran
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk