

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MACK C. MASON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75285-COA

**FILED**

MAR 20 2019

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

*ORDER OF AFFIRMANCE*

Mack C. Mason appeals from a district court order denying a postconviction for a writ of habeas corpus filed on November 15, 2016.<sup>1</sup> Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Mason's petition was untimely because it was filed more than 14 years after the remittitur on direct appeal was issued on September 3, 2002,<sup>2</sup> and it was successive because he had previously filed several postconviction petitions for a writ of habeas corpus.<sup>3</sup> See NRS 34.726(1); NRS 34.810(2). Therefore, his petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3). Moreover, because the State specifically pleaded laches, Mason

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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

<sup>2</sup>See *Mason v. State*, 118 Nev. 554, 51 P.3d 521 (2002).

<sup>3</sup>See *Mason v. State*, Docket No. 71296 (Order of Affirmance, May 16, 2017); *Mason v. State*, Docket No. 58517 (Order of Affirmance, November 17, 2011). Mason voluntarily dismissed the petition he filed in the district court on September 5, 2002, and he did not appeal from the district court order denying the petition he filed on January 23, 2003.

was required to overcome the rebuttable presumption of prejudice to the State. See NRS 34.800(2).

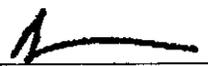
To the extent Mason claimed that he had good cause because the district court failed to appoint postconviction counsel and thereby violated *Martinez v. Ryan*, 566 U.S. 1 (2012), his good cause claim was without merit. The appointment of counsel in Mason's postconviction proceedings was not statutorily or constitutionally required. See *Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Moreover, the Nevada Supreme Court has determined that *Martinez* does not apply to Nevada's statutory postconviction procedures. See *Brown v. McDaniel*, 130 Nev. 565, 571-72, 331 P.3d 867, 871 (2014).

Mason failed to demonstrate good cause or a fundamental miscarriage of justice sufficient to excuse the procedural bars to his petition and the State's specific plea of laches. Therefore, the district court did not err by denying the petition, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Eric Johnson, District Judge  
Mack C. Mason  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk