

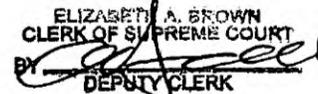
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 87149-COA

FILED

FEB 07 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
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 filed on October 25, 2022.¹ Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Langford filed his petition more than five 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

¹Langford's pleading was titled "petition for writ of habeas corpus (Nev. Const. Art. 6, §6)." The district court construed Langford's petition as a postconviction habeas petition. Langford does not challenge this determination on appeal.

different from those raised in his previous petitions.² See NRS 34.810(1)(b)(2); NRS 34.810(3).³ Langford'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).

Langford claimed the procedural bars did not apply to his petition because the district court lacked jurisdiction. Langford first alleged that NRS 171.010 and NRS 220.170 were invalid because their statutory sources within the Statutes of Nevada were repealed in 1957 by Senate Bill 2. While the laws in effect prior to 1957 were repealed in 1957, they were simultaneously reenacted as the Nevada Revised Statutes in the same senate bill. See 1957 New Stat., ch. 2, §§ 1, 3, at 1-2. And the simultaneous repeal of NRS 171.010 and NRS 220.170's source law would not have affected their validity. See 1957 Nev. Stat., ch. 2, § 4(2), at 2 ("The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act."). Therefore, we conclude the district court did not err by denying this claim.

Langford also alleged that the Nevada Revised Statutes were invalid because they lacked enacting clauses. The Nevada Supreme Court

²See *Langford v. Baker*, No. 84284-COA, 2022 WL 2841841 (Nev. Ct. App. July 20, 2022) (Order of Affirmance); *Langford v. Baker*, No. 83032-COA, 2021 WL 5370074 (Nev. Ct. App. Nov. 17, 2021) (Order of Affirmance); *Langford v. Baker*, 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).

³The 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).

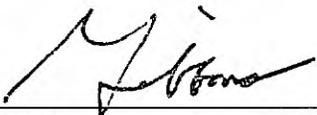
has previously concluded that this claim lacked merit. *See Langford*, Nos. 75825, 76076, 2019 WL 1440980. This determination is the law of the case and “cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings.” *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Therefore, we conclude the district court did not err by denying this claim.

Next, Langford claimed he had good cause to overcome the procedural bars because he did not receive copies of his transcripts until January 2020. Langford filed the instant petition over two years after he allegedly received copies of his transcripts. Langford thus failed to raise this claim in a timely manner, *see Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018) (holding that a good-cause claim must be raised within one year of its becoming available), and he did not demonstrate an impediment external to the defense prevented him from raising this claim at an earlier time, *see Hathaway v. State*, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Therefore, we conclude the district court did not err by denying this claim.

Finally, Langford claimed he had good cause to overcome the procedural bars because the jury was not sworn, resulting in structural error. Asserting an error constitutes structural error does not relieve Langford of his burden to show good cause and prejudice to overcome the procedural bars. *See Thornburg v. Mullin*, 422 F.3d 1113, 1141 (10th Cir. 2005) (“[E]ven structural errors are subject to state procedural bars.”). In addition, Langford failed to raise this claim in a timely manner, *see Rippo*, 134 Nev. at 422, 423 P.3d at 1097, and he did not demonstrate an impediment external to the defense prevented him from raising this claim at an earlier time, *see Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506.

Therefore, we conclude the district court did not err by denying Langford's petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

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