

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE A. GALLIMORT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61815

FILED

JUN 12 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

Appellant filed his petition on June 18, 2012, 12 years after issuance of the remittitur on direct appeal on April 5, 2000. *See Gallimort v. State*, 116 Nev. 315, 997 P.2d 796 (2000). Thus, appellant's petition was untimely filed. *See* NRS 34.726(1). Further, appellant's petition was successive because he had previously filed three post-conviction petitions for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.² *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition

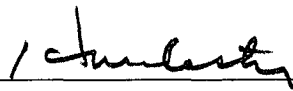
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

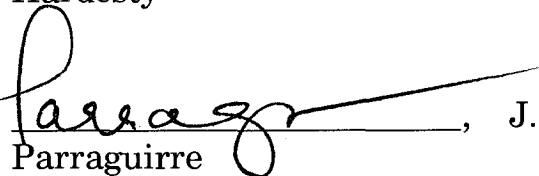
²*See Gallimort v. State*, Docket Nos. 33289 & 36826 (Order of Affirmance, August 7, 2001); *Gallimort v. State*, Docket No. 49438 (October 11, 2007).

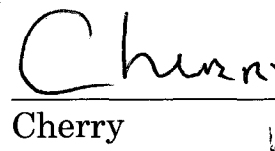
was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3). Moreover, because the State specifically pleaded laches, appellant was required to overcome the rebuttable presumption of prejudice. NRS 34.800(2).

Appellant's sole good-cause argument was a mere reference to his "statement of cause and prejudice" submitted with an earlier post-conviction habeas petition. In affirming the denial of each of appellant's prior petitions, see *Gallimort v. State*, Docket Nos. 33289 & 36826 (Order of Affirmance, August 7, 2001); *Gallimort v. State*, Docket No. 49438 (October 11, 2007), this court necessarily rejected any good-cause arguments therein such that appellant's instant good-cause claim is barred by the doctrine of the law of the case. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Moreover, appellant failed to overcome the presumption of prejudice to the State pursuant to NRS 34.800(2). We therefore conclude that the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Jerome T. Tao, District Judge
Jose A. Gallimort
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk