

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS RODRIGUEZ-ORTEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54340

FILED

MAY 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Carlos Rodriguez-Ortez's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

Rodriguez-Ortez contends that the district court erred by denying his claims that defense counsel was ineffective and that his guilty plea was not freely entered. The State contends that the petition was untimely filed and that the district court should have denied the petition on that ground. We agree. There is no evidence that a timely habeas petition was ever filed in this case and the district court's decision to continue habeas proceedings did not constitute an impediment external to the defense. See NRS 34.726(1); Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003); see also Hood v. State, 111 Nev. 335, 338, 890 P.2d 797, 798

(1995). We conclude that the district court should have denied the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James M. Bixler, District Judge
Kristina M. Wildeveld
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk