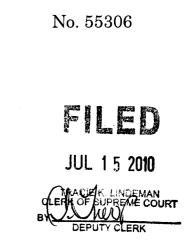
IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN MICHAEL THOMAS, Appellant, vs. WARDEN, SOUTHERN DESERT CORRECTIONAL CENTER, BRIAN WILLIAMS AND THE STATE OF NEVADA, Respondents.



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ORDER OF AFFIRMANCE

This is an appeal from an order of the district court dismissing appellant Shawn Michael Thomas's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Thomas contends that the district court abused its discretion by finding that he did not demonstrate good cause and prejudice for the delay in filing his habeas petition, and he asserts that the failure to consider the merits of his petition would result in a fundamental miscarriage of justice. Thomas claimed that his petition was filed late because he had just received his paperwork, the yard schedule prevented him from going to the law library, he did not understand the process, and no one would help him. We conclude that Thomas did not demonstrate that an impediment external to the defense prevented him from complying with procedural default rules, NRS 34.726(1); <u>Hathaway v. State</u>, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003), or make a colorable showing of actual innocence which might excuse the failure to demonstrate good

SUPREME COURT OF NEVADA cause under the fundamental miscarriage of justice standard, <u>Pellegrini v.</u> <u>State</u>, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); <u>Mazzan v. Warden</u>, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996), and therefore he has not shown that the district court abused its discretion by dismissing his untimely habeas petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

J. Hardesty

J. Douglas

J.

Service A.

cc: Hon. Janet J. Berry, District Judge Merchant Law Firm, Ltd. Attorney General/Carson City Washoe County District Attorney Washoe District Court Clerk

SUPREME COURT OF NEVADA

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