

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.

No. 55306

**FILED**

JUL 15 2010

MACIEK LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

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); Hathaway v. State, 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

cause under the fundamental miscarriage of justice standard, Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); Mazzan v. Warden, 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.

Jan Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

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