


IN THE SUPREME COURT OF THE STATE OF NEVADA

HORACE CALVIN HOUSTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55607

**FILED**

NOV 08 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant filed his petition on September 21, 2009, five years after issuance of the remittitur on direct appeal on September 22, 2004.<sup>2</sup> Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1).

Appellant failed to demonstrate any impediment external to the defense to establish good cause for his delay in filing his petition. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). The

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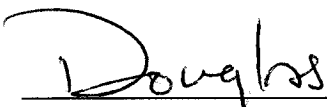
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

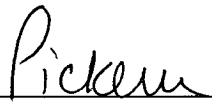
<sup>2</sup>Houston v. State, Docket No. 42011 (Order of Affirmance, August 27, 2004).

alleged seizure of appellant's case materials by prison officials does not establish good cause as appellant failed to allege how these materials were necessary to support any specific claims. See Hood v. State, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995) (concluding that trial counsel's failure to send appellant his files did not constitute good cause); Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). To the extent appellant claimed that this court's decision in Bolden v. State, 121 Nev. 908, 124 P.3d 191 (2005), excused his delay, appellant failed to demonstrate good cause for the entire length of his delay, as he did not file his petition until approximately four years after this court issued its decision in Bolden. See NRS 34.726(1). Therefore, the district court did not err in dismissing appellant's petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Donald M. Mosley, District Judge  
Horace Calvin Houston  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk