

IN THE SUPREME COURT OF THE STATE OF NEVADA

OSCAR MORENO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55640

FILED

SEP 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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; Jackie Glass, Judge.

Appellant filed his petition on April 24, 2009, more than one year after entry of the judgment of conviction on October 17, 2007. 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 id.

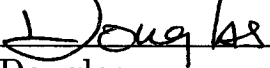
Appellant claimed that he had good cause because he did not have law library access during the time he was incarcerated at Ely State Prison. Appellant failed to demonstrate that an impediment external to the defense excused his delay. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Notably, appellant failed to demonstrate that the

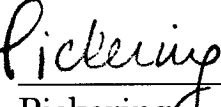
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

facilities in which he was incarcerated did not have procedures in place for providing access to legal materials or inmate assistance, and although appellant focused on his time at Ely State Prison, he provided no argument for his time at High Desert State Prison. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Jackie Glass, District Judge
Oscar Moreno
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk