

IN THE SUPREME COURT OF THE STATE OF NEVADA

FERNANDO THOMAS PIPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56235

FILED

DEC 10 2010

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. M. [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to dismiss appellant Fernando Piper's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Piper contends that the district court erred by dismissing his petition as untimely without an evidentiary hearing. Piper concedes that his petition was untimely filed, see NRS 34.726(1), but asserts that he gave the petition to prison officials four days before the one-year deadline, and if prison officials had placed it in the mail on that day it would have been timely filed. This argument was not raised in the proceedings below and Piper has not asserted any good cause for failing to raise this claim earlier. Accordingly, we need not address it. See Hill v. State, 114 Nev. 169, 178, 953 P.2d 1077, 1084 (1998). Moreover, this contention would not have warranted an evidentiary hearing, see Means v. State, 120 Nev. 1101, 1016, 103 P.3d 25, 35 (2004), because even if Piper could prove that he gave his petition to prison officials four days before the deadline, the prison mailbox rule does not apply to post-conviction petitions for relief, Gonzales v. State, 118 Nev. 590, 595, 53 P.3d 901, 904 (2002), and Piper

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does not allege any interference on the part of prison officials that could constitute good cause to overcome the procedural bar, Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk