

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHACOBÉ LAMAR WARREN,  
Appellant,  
vs.  
RENEE BAKER, WARDEN,  
Respondent.

No. 80406-COA

**FILED**

**OCT 16 2020**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Younes  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Chacobe Lamar Warren appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 15, 2019. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Warren filed his petition more than one year after entry of the judgment of conviction on October 12, 2018.<sup>1</sup> Thus, Warren's petition was untimely filed. *See* NRS 34.726(1). Warren's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Warren claims that his petition should have been deemed timely because he submitted his petition to prison officials on October 3, 2019, nine days before the one-year deadline. However, the prison mailbox rule, which allows the date of delivery to prison officials to count in determining the timeliness of a notice of appeal, does not apply to postconviction petitions for relief. *Gonzales v. State*, 118 Nev. 590, 595, 53

---

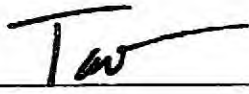
<sup>1</sup>Warren did not pursue a direct appeal from his judgment of conviction.

P.3d 901, 904 (2002). Thus, even if Warren gave his petition to prison officials before the deadline, the petition was not filed for purposes of NRS 34.726 until it was actually received by the district court. Accordingly, Warren's petition was untimely filed, and we conclude the district court did not err by denying the petition as procedurally barred.

Warren also claims, based on the holding in *Martinez v. Ryan*, 566 U.S. 1 (2012), that the district court erred by denying his petition as untimely. This claim was not raised below; therefore, we decline to consider this claim for the first time on appeal. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

Having concluded Warren is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Egan K. Walker, District Judge  
Chacobe Lamar Warren  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk