

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE ALFREDO CARCANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55785

**FILED**

SEP 29 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Younger  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant filed his petition on December 4, 2009, more than three years after this court issued the remittitur in appellant's direct appeal on September 8, 2006.<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 prejudice. See NRS 34.726(1).


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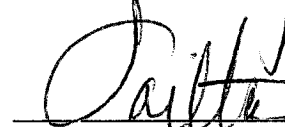
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


<sup>2</sup>Carcano v. State, Docket No. 46980 (Order Affirming in Part, Reversing in Part, and Remanding, August 14, 2006).

Appellant failed to demonstrate any impediment external to the defense prevented him from filing his claims within the time limits of NRS 34.726(1).<sup>3</sup> See Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Therefore, the district court did not err in denying his petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

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

cc: Hon. Douglas W. Herndon, District Judge  
Jose Alfredo Carcano  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</sup>Appellant also failed to demonstrate any violation pursuant to Brady v. Maryland, 373 U.S. 83 (1963), that excused his procedural defects. State v. Bennett, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003).