

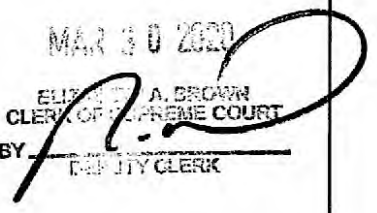
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAY PINEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78908-COA

FILED

MAR 30 2020

ELIOT E. A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Ray Pineda appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on February 27, 2019. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Pineda's petition did not include a certificate of service demonstrating he served the Attorney General's Office in accord with NRS 34.730(2)(a). In accord with *Miles v. State*, 120 Nev. 383, 387, 91 P.3d 588, 590 (2004), the district court filed an order giving Pineda 20 days to provide proof the Attorney General's Office had been served. Pineda failed to provide the requested proof of service, and after the 20 days had lapsed, the district court dismissed the petition.

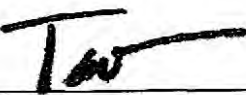
On appeal, Pineda claims he did not receive the district court's order. However, the court's order contained a certificate of service, certifying that the court served Pineda via the U.S. mail at the address listed on appellant's petition on April 9, 2019. Pineda fails to demonstrate that the district court did not properly serve the order. *See* NRCP 5(b)(4) ("Proof of service may be made by certificate."); *see also* NRS 34.780(1) (stating that the Nevada Rules of Civil Procedure apply to proceedings for

postconviction petitions for a writ of habeas corpus to the extent they are not inconsistent with NRS Chapter 34). And, notably, Pineda does not allege that he did serve the Attorney General's Office. See NRCP 5(b)(4) ("Failure to make proof of service does not affect the validity of service.").

Because Pineda failed to respond to the district court's order to cure the defect or otherwise indicate he served the Attorney General's Office, we conclude the district court did not err by dismissing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerome M. Polaha, District Judge
Ray Pineda
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk