

IN THE SUPREME COURT OF THE STATE OF NEVADA

VERDELL ROBINSON, JR.,
Petitioner,

vs.

THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
MINERAL; THE HONORABLE
ROBERT W. LANE, DISTRICT JUDGE;
AND JEAN JUSTUS, MINERAL
COUNTY CLERK,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

VERDELL ROBINSON, JR., A/K/A
VERDELL ROBINSON,
Petitioner,

vs.

WARDEN, NEVADA STATE PRISON,
MICHAEL BUDGE,
Respondent.

No. 43096

FILED

JUN 25 2004

JANE FIE M. BLOOM
CLERK OF SUPREME COURT
BY *Richard*
CHIEF DEPUTY CLERK

No. 43419

ORDER DENYING PETITION IN DOCKET NO. 43096 AND
DISMISSING APPEAL IN 43419

Docket No. 43096 is a proper person petition for a writ of mandamus seeking extraordinary relief from this court. Docket No. 43419 is a proper person appeal from an order of the district court purportedly denying a petition for a writ of habeas corpus. Fifth Judicial District Court, Mineral County; John P. Davis, Judge. We elect to consolidate these matters for disposition.¹

¹See NRAP 3(b).

Docket No. 43096

In his petition for a writ of mandamus, Robinson claims, among other things, that: (1) the district court failed to transmit a copy of the judgment of conviction purportedly entered in 2002 to him or the Department of Corrections; (2) the district court has not resolved Robinson's habeas corpus petition, or if it has resolved the petition, the district court clerk has never served Robinson with a copy of the order; and (3) the clerk of the district court has failed to transmit Robinson's notice of appeal to this court.

It appeared from this court's review of the documents before it that Robinson had set forth issues of arguable merit and that he may have no adequate legal remedy.² Accordingly, this court directed the State to inform this court: (1) whether a new judgment of conviction had been entered, and if so, whether the required copies were transmitted to the appropriate parties; (2) whether Robinson's post-conviction petition for a writ of habeas corpus was filed in the district court, whether the petition had been resolved, and if the petition had been resolved, whether service of notice of entry of the order was properly performed by the clerk of the district court; and (3) whether a notice of appeal was filed by Robinson in the district court and on what date the notice of appeal was filed. On June 7, 2004, the State filed a timely response to this court's order.

After reviewing the response of the State, this court concludes that extraordinary relief is not warranted in this matter. First, the State informs this court that an amended judgment of conviction was entered on May 24, 2004, and transmitted to the Department of Corrections and

²See NRS 34.160.

Robinson. Second, the State informs this court that Robinson failed to submit a copy of his petition for a writ of habeas corpus to the district court for filing, and thus, no action has been taken on his petition at this time.³ Finally, the State informs this court that a notice of appeal was filed on February 12, 2004. The notice of appeal was transmitted to this court on June 3, 2004, and was docketed in this court in Docket No. 43419.⁴ Because Robinson has received all of the relief to which he is entitled at this time, we order the petition denied in Docket No. 43096.⁵

Docket No. 43419

In this matter, Robinson purports to appeal from a decision of the district court denying his petition for a writ of habeas corpus. However, as noted above, the district court has not resolved Robinson's petition. Thus, Robinson's notice of appeal is premature, and we lack

³The clerk of the district court was able to obtain a copy of the petition from the Mineral County District Attorney's Office and caused the petition to be filed in the district court on May 24, 2004. The State informs this court that the petition remains pending in the district court at this time. We are confident that the district court will resolve all pending matters as expeditiously as its calendar permits.

⁴The State informs this court that the notice of appeal was not transmitted earlier because no order had been entered in the matter in the district court. Although appellant's notice of appeal is defective for the reasons discussed below, we emphasize that the clerk of the district court is required to transmit the notice of appeal despite any deficiencies in the notice of appeal. See NRAP 3(a)(2).

⁵We conclude that the State's response completely answers this court's inquiries. No further response is required in this matter.

jurisdiction to consider this appeal.⁶ Robinson may file an appeal from any final adverse decision on his petition.⁷

Conclusion

Having concluded that Robinson is not entitled to extraordinary relief in Docket No. 43096 and that the appeal in Docket No. 43419 is premature, we

ORDER the petition DENIED in Docket No. 43096 and ORDER the appeal DISMISSED in Docket No. 43419.⁸

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

⁶Briefing and oral argument are unwarranted in this matter. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷See NRS 34.575.

⁸We have reviewed appellant's proper person requests, and we conclude that no relief based upon those submissions is warranted.

cc: Hon. Robert W. Lane, District Judge
Verdell Robinson Jr.
Attorney General Brian Sandoval/Carson City
Mineral County District Attorney
Mineral County Clerk