

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN MATTHEW VERA A/K/A JOHN
MATHEW VERA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND DEPT. 11, DISTRICT
JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 43552

FILED

AUG 13 2004

JANETTE M. BLOCH
CLERK OF SUPREME COURT
BY *J. Subard*
DEPUTY CLERK

ORDER DENYING PETITION

This is a proper person petition for a writ of mandamus. Petitioner claims that he filed a post-conviction petition for a writ of habeas corpus in the district court on September 7, 2001. Petitioner further claims that the district court held a limited evidentiary hearing on some of the allegations on January 18, 2002. Petitioner asserts that the district court scheduled a decision date for July 2, 2002, but vacated that date in May 2002. On November 25, 2002, petitioner asserts that he filed a proper person motion for submission of petition, which the district court

denied. Petitioner appealed, and this court dismissed the appeal for lack of jurisdiction.¹ Specifically, this court determined that an order denying a motion for submission was not appealable. This court further determined that an appeal from the denial of the habeas corpus petition was premature.

In the instant petition, petitioner claims that the district court has not yet resolved his habeas corpus petition. Petitioner seeks an order directing the district court to vacate a prior order denying a motion for submission of habeas corpus petition. Petitioner further seeks an order directing the district court to enter findings of fact and conclusions of law denying his habeas corpus petition.


We have considered the petition on file herein, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.² The documents before this court indicate that the district court entered a final written order denying appellant's petition on October 16, 2002. Service of notice of entry of order, it appears, was performed on October 23, 2002. Any language in this court's prior order


¹Vera v. State, Docket No. 40771 (Order Dismissing Appeal, March 3, 2003).

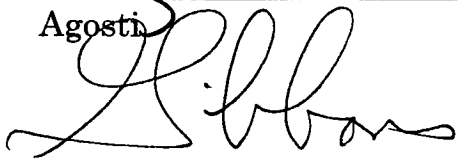
²See NRS 34.160; NRS 34.170.

to the contrary was in error and did not prejudice petitioner.³ Accordingly,
we

ORDER the petition DENIED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

³If service of notice of entry of the October 16, 2002 order was properly performed pursuant to the requirements of NRS 34.830, petitioner's January 7, 2003 notice of appeal, designating the order denying his motion for submission of habeas petition, was untimely from the denial of the habeas corpus petition. See NRAP 4(b); Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994). If service of notice of entry of the October 16, 2002 order was not properly performed pursuant to the requirements of NRS 34.830, the time for filing a notice of appeal has not begun to run. It is unclear from the documents before this court whether service of notice of entry was properly performed in the instant case.

cc: Eighth Judicial District Court Dept. 11, District Judge
John Matthew Vera
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk