

IN THE SUPREME COURT OF THE STATE OF NEVADA

VANCE EVANS MCGEE,  
Appellant,  
vs.  
THE STATE OF NEVADA; NEVADA  
DEPARTMENT OF CORRECTIONS  
AND NEVADA PAROLE BOARD,  
Respondents.

No. 44409

**FILED**

APR 22 2005

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court dismissing appellant Vance McGee's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On January 25, 1988, the district court convicted McGee, pursuant to a guilty plea, of burglary (count I) and grand larceny (count II). The district court sentenced McGee to serve a term of ten years for count I, and a consecutive term of five years for count II. McGee's sentence was imposed to run concurrently with his sentence in district court case no. C86-2130.

On November 7, 2003, McGee filed a proper person post-conviction petition for a writ of habeas corpus in the district court. In his petition, McGee claimed that he discharged his sentence for the instant offenses in 1999, and contended that his due process rights were violated when a parole revocation hearing was conducted without his presence in

2002. Pursuant to NRS 34.750, the district court appointed counsel to represent McGee. Counsel entered into negotiations with the State whereby McGee would receive a new parole revocation hearing. On June 25, 2004, McGee's counsel filed a motion to withdraw, in which she alleged that McGee's habeas corpus petition was moot in light of the fact that he was to receive a new parole revocation hearing. McGee's counsel further noted that McGee disagreed with her position and a conflict had developed. On August 11, 2004, the district court granted counsel's motion to withdraw and dismissed McGee's petition for a writ of habeas corpus as moot. This appeal followed.


McGee's petition did not challenge the validity of his judgment of conviction or sentence, but rather challenged the computation of time served and his parole revocation hearing. McGee's petition should have been filed in the district court in the county in which he was incarcerated, but McGee filed his petition in the county in which he was convicted.<sup>1</sup> The record before this court does not allow for adequate review of McGee's claims. Therefore, we direct the clerk of the Second Judicial District Court to transfer McGee's petition to the clerk of the appropriate district court.<sup>2</sup> Accordingly, we

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<sup>1</sup>See NRS 34.738(1).

<sup>2</sup>We further note that the district court erred in dismissing McGee's petition as moot; the grant of a new parole revocation hearing did not resolve McGee's claim that he has already discharged his sentence.

ORDER the judgment of the district court REVERSED AND  
REMAND this matter to the district court for proceedings consistent with  
this order.

  
\_\_\_\_\_, J.  
Rose

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

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Brent T. Adams, District Judge  
Vance Evans McGee  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk