

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE J. SMITH, JR.,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46141

FILED

NOV 22 2005

ORDER DENYING PETITION

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

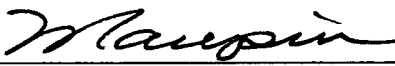
This is a proper person petition for a writ of mandamus, or in the alternative, motion for post-conviction relief. Petitioner seeks an order directing the clerk of the district court to file petitioner's proper person motion for post-conviction relief.

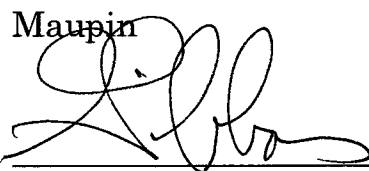
We have considered the petition on file herein, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. In Docket No. 43751, petitioner currently has pending an appeal from his judgment of conviction. It appears from petitioner's motion for post-conviction relief that he is attempting to raise a pre-emptive argument for ineffective assistance of appellate counsel. It is wholly improper to raise a claim of ineffective assistance of appellate counsel prior to the resolution of the direct appeal. Petitioner may file in the district court a post-conviction petition for a writ of habeas corpus in

compliance with NRS chapter 34 after the resolution of his direct appeal.

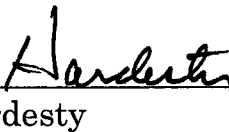
Accordingly, we

ORDER the petition DENIED.

 _____, J.

Maupin
 _____, J.

Gibbons

 _____, J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Willie J. Smith Jr.
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk