

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS ANTONIO ESCOBAR,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, THE HONORABLE LEE A.
GATES, DISTRICT JUDGE,
Respondents,
and
GARY E. GOWEN AND PHILLIP J.
PATTEE, ESQ., ASSOC. BAR
COUNSEL OF THE STATE BAR OF
NEVADA,
Real Parties in Interest.

No. 46971

FILED

JUL 14 2006

ANNE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER GRANTING PETITION

This is a proper person petition for a writ of mandamus seeking this court's intervention in post-conviction proceedings pending in the district court.

On November 14, 2000, petitioner filed a proper person post-conviction petition for a writ of habeas corpus in the district court.¹ In 2001, the district court appointed Mr. Gary Gowen as post-conviction

¹Petitioner filed the petition in district court case number C143183, a case that had been consolidated with district court case number C147772.

counsel. It appears that Mr. Gowen filed a motion for the appointment of an investigator which the district court granted on June 26, 2002. As no supplement to the petition was ever filed by Mr. Gowen, the district court took the petition off calendar on September 25, 2002. Thus, the habeas corpus petition has remained pending in the district court for over five and one-half years.

Petitioner filed the instant petition seeking this court's intervention in the post-conviction proceedings. This court concluded that a response from Mr. Gowen was required; Mr. Gowen was to explain why he had not prosecuted the petition on behalf of petitioner and why this court should not issue a writ of mandamus directing the district court to conduct proceedings to determine whether Mr. Gowen should be removed from the case. Mr. Gowen has filed a response indicating that he and petitioner fundamentally disagree upon the claims to be raised in the supplement to the petition and that this disagreement has largely been the reason for the delay.²

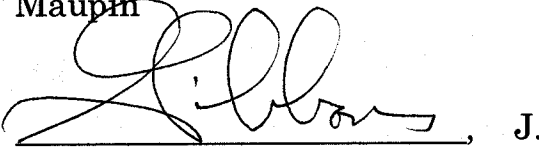
Having reviewed the documents presented to this court for consideration, we conclude that a writ of mandamus should issue directing the district court to remove Mr. Gowen as appointed counsel in the post-conviction case. The district court shall appoint new counsel to represent petitioner in the post-conviction proceedings. Accordingly, we

²It further appears that investigative issues might have further delayed the filing of a supplement.

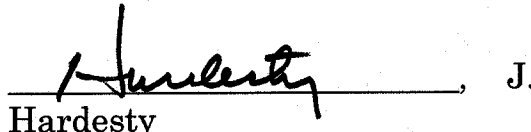
ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to remove Mr. Gowen as post-conviction counsel in district court case number C143183 and appoint new counsel to represent petitioner in the pending post-conviction proceedings.


_____ J.

Maupin


_____ J.

Gibbons


_____ J.

Hardesty

cc: Hon. Lee A. Gates, District Judge
Carlos Antonio Escobar
Clark County District Attorney David J. Roger
State Bar of Nevada
Gary E. Gowen
Clark County Clerk