


IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN RAY MILLER,
Appellant,
vs.
SGT. LEWIS; C/O THOMAS; SHANNON
MOYLE, CCS I AND THE STATE OF
NEVADA,
Respondents.

No. 48167

FILED

JUN 22 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY:  DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of habeas corpus. First Judicial District Court, Carson City; Michael R. Griffin, Judge.

On August 30, 2006, appellant filed a proper person petition for a writ of habeas corpus in the district court, in which appellant claimed that he was being denied good time credits. On September 12, 2006, the district court denied appellant's petition because appellant's petition was not in the proper form required by NRS 34.735. This appeal followed.

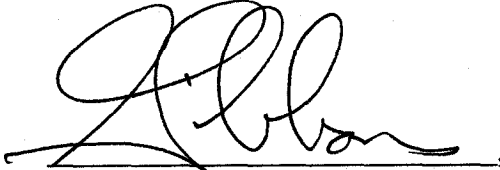
The fact that appellant's petition was not in the proper form required by NRS 34.735 is not a sufficient basis for denying appellant's petition with prejudice.¹ Further, we note that the district court denied appellant's petition without ordering a response or answer to the petition. Because appellant's petition challenged the computation of time served, it

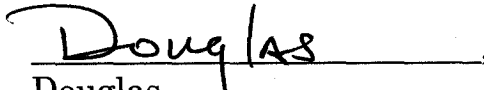
¹Cf. Miles v. State, 120 Nev. 383, 91 P.3d 588 (2004) (holding that an inadequate verification of a petition for a writ of habeas corpus is an amendable rather than jurisdictional defect that the district court should allow the petitioner to cure).

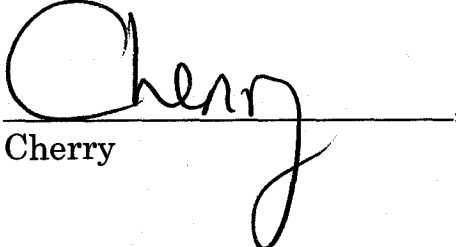
appears the district court should have ordered a response or answer to the petition.² Accordingly, we conclude that the district court erred by denying appellant's petition, and we reverse the district court's denial of appellant's petition and remand this matter to the district court for further consideration of the petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is only entitled to the relief granted and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁴


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

²See NRS 34.745(2).

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.

cc: First Judicial District Court Dept. 1, District Judge
John Ray Miller
Attorney General Catherine Cortez Masto/Carson City
Carson City Clerk