

IN THE SUPREME COURT OF THE STATE OF NEVADA

KURT AUSTIN HEILIG,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND CLERK OF THE EIGHTH
JUDICIAL DISTRICT COURT, IN AND
FOR CLARK COUNTY, NEVADA,
Respondents.

No. 49838

FILED

AUG 17 2007

JAYETTE W. BLOOM
CLERK OF SUPREME COURT
J. Bloom
DEPUTY CLERK

ORDER DENYING PETITION

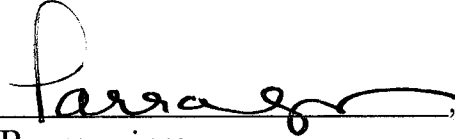
This is a proper person petition for a writ of mandamus. Petitioner seeks an order directing the clerk of the district court to file a presentence motion to withdraw a guilty plea that he submitted for filing in August 2006. Petitioner notes that the motion was not filed, but forwarded to counsel because he was represented by counsel. We have considered the documents before this court, and we conclude that this court's intervention in this matter is not warranted.¹ Because petitioner was represented by counsel at the time that he submitted his motion in criminal proceedings that had not concluded, petitioner was required to proceed by and through his counsel.² If petitioner believes that trial counsel was ineffective for failing to file the presentence motion to withdraw a guilty plea, petitioner may raise such a claim in a post-

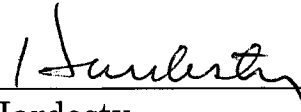
¹See NRS 34.160; NRS 34.170.

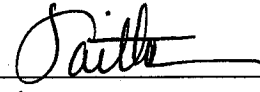
²See, e.g., EDCR 3.70.

conviction petition for a writ of habeas corpus filed in the district court in the first instance.³ Accordingly, we

ORDER the petition DENIED.⁴


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Kurt Austin Heilig
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

³See NRS 34.724; NRS 34.738. We express no opinion as to whether petitioner can satisfy the procedural requirements of NRS chapter 34—including the filing of a timely petition within one year from entry of the judgment of conviction or the issuance of a remittitur if a direct appeal was taken. See NRS 34.726.

⁴We have considered all proper person documents submitted in this matter, and we conclude that the relief requested is not warranted at this time.