

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE CARLOS OJEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52022

FILED

FEB 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a purported order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On November 30, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of battery with a deadly weapon in the Second Judicial District Court. The district court sentenced appellant to serve a term of 24 to 72 months in the Nevada State Prison. The district court suspended the sentence and placed appellant on probation for a period not to exceed 2 years. On February 9, 2007, the district court revoked appellant's probation and executed the original sentence. No appeal was taken.

On January 9, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the Second Judicial District Court. On June 18, 2008, the district court entered a written order transferring the petition to the Eighth Judicial District Court. This appeal followed.


In his petition, appellant challenged the computation of time served.

NRS 34.738(1) provides that a petition for a writ of habeas corpus that challenges the computation of time served must be filed with the clerk of the district court for the county in which the petitioner is incarcerated. NRS 34.738(2)(b) further provides that a petition that is filed in the wrong county must be transferred by the clerk of that court to the clerk for the appropriate county.


Appellant filed the petition in the Second Judicial District Court, however, appellant is incarcerated in a facility located within the Eighth Judicial District Court. Thus, appellant's petition was filed in the wrong county, and the district court properly determined that the petition should be transferred. Therefore, we affirm the order of the district court.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.

Cherry


_____, J.

Saitta


_____, J.

Gibbons

cc: Hon. Brent T. Adams, District Judge
Jose Carlos Ojeda
Attorney General Catherine Cortez Masto/Carson City
Attorney General Catherine Cortez Masto/Reno
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk