


IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID RODRIGUES,  
Petitioner,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52398

**FILED**

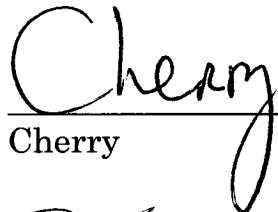
NOV 14 2008


TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK


ORDER DENYING PETITION

This is a proper person petition for a writ of habeas corpus. Petitioner asserts that he filed a post-conviction petition for a writ of habeas corpus, the district court ordered the State to file an answer within 45 days, and the State filed a motion to dismiss 3 days late. We have considered the documents submitted in this matter, and we conclude that no relief is warranted at this time. The timeliness of the motion to dismiss is an issue that should be raised in the district court in the first instance. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Steven P. Elliott, District Judge  
David Rodrigues  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk