

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH A. KENMORE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52703

**FILED**

MAR 12 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

On July 19, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition, and appellant filed a response. On December 2, 2008, the district court denied the petition. This appeal followed.

In his petition, appellant challenged the computation of time served. Appellant appeared to claim that the Department of Corrections improperly calculated his statutory good time credits.

The district court denied the petition because the petition was filed in the original case relating to the underlying criminal case and not as a separate case. We conclude that the district court erred in relying on this ground to deny relief. Although NRS 34.730 provides that a petition that challenges the computation of time served should be filed as a separate action, it is the responsibility of the clerk of the district court to file the petition as a separate action. NRS 34.730(3) (providing in pertinent part "the clerk of the district court shall file a petition as a new action separate and distinct from any original proceeding in which a

conviction has been had"). Any defects in the filing of the petition were curable defects and did not necessitate the denial of the petition. See Miles v. State, 120 Nev. 383, 387, 91 P.3d 588, 590 (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). Accordingly, we reverse the order of the district court and remand this matter to allow for correction of any defects and consideration of the petition on the merits.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that oral argument and briefing are unwarranted in this matter. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>1</sup>

1 Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Pickering, J.  
Pickering

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<sup>1</sup>We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein.

cc: Hon. Jennifer Togliatti, District Judge  
Ralph A. Kenmore  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk