


IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN WENDELL SMYTHE,  
Petitioner,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53670

**FILED**

MAY 20 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION

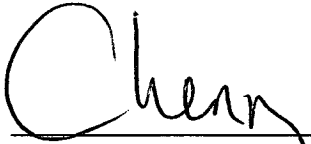
This is a proper person petition for a writ of mandamus. Petitioner challenges the validity of the judgment of conviction and the effective assistance of counsel. Petitioner further appears to complain that the district court has not considered his 2008 post-conviction petition for a writ of habeas corpus. We have reviewed the documents submitted in this matter, and without deciding upon the merits of any claims, we decline to exercise original jurisdiction in this matter. NRS 34.160. A challenge to the validity of the judgment of conviction must be raised in a post-conviction petition for a writ of habeas corpus in the district court in the first instance.<sup>1</sup> NRS 34.724(2)(b); NRS 34.738(1). We are confident that

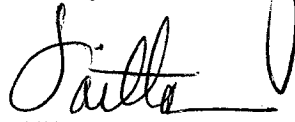
---


<sup>1</sup>We express no opinion as to whether petitioner could meet the procedural requirements of NRS chapter 34.

the district court will resolve all pending matters as expeditiously as the court's calendar permits. Accordingly, we

ORDER the petition DENIED.

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

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

  
\_\_\_\_\_, J.  
Gibbons

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