

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL ANTHONY RICE,
Petitioner,

vs.

THE SIXTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
HUMBOLDT, AND THE HONORABLE
RICHARD A. WAGNER, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 53828

FILED

AUG 07 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

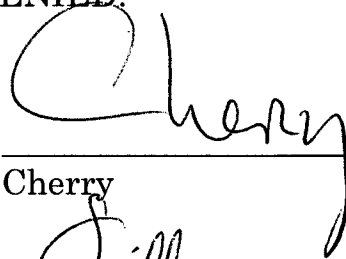
This is a proper person petition for a writ of mandamus seeking extraordinary relief from this court. Rice filed his petition on May 19, 2009, complaining, among other things, that the district court has failed to resolve his post-conviction petition for a writ of habeas corpus that he filed in August 2006. This court ordered an answer to the petition, and the State responded on July 8, 2009.

In its response, the State largely adopted the statements of the district court in an order entered on June 15, 2009. In its order, the district court noted that while the State filed a response to Rice's petition in October 2006, Rice failed to file a reply to the response. Rather, it appears that Rice requested a stay of his petition while he pursued a separate petition for a writ of mandamus with this court. Following this court's denial of his petition in January 2007, Rice filed a motion for judgment on the pleadings in October 2008, and attempted to file a premature notice of appeal from his initial petition for a writ of habeas

corpus, which had not yet been resolved by the district court. Thus, the district court indicated that if Rice did not file a reply to the State's October 2006 response within 30 days of the date of entry of the order, it would dismiss Rice's post-conviction petition for a writ of habeas corpus.

Given the statements of the district court, it appears that any undue delay in the resolution of Rice's post-conviction petition for a writ of habeas corpus was due to Rice's decision to pursue additional motions and petitions to this court while his initial petition was pending. Therefore, having 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; NRS 34.170. We are confident that the district court will resolve Rice's petition as expeditiously as its calendar permits. Accordingly, we

ORDER the petition DENIED.


_____, J.

Cherry


_____, J.

Saitta


_____, J.

Gibbons

cc: Hon. Richard Wagner, District Judge
Paul Anthony Rice
Attorney General Catherine Cortez Masto/Carson City
Humboldt County District Attorney
Humboldt County Clerk