

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANKLIN DALE HEATH,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,  
Respondent,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 54749

**FILED**

NOV 05 2009

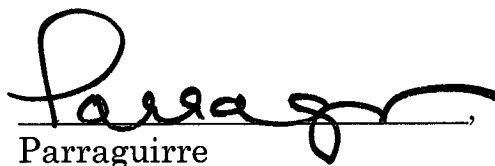
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

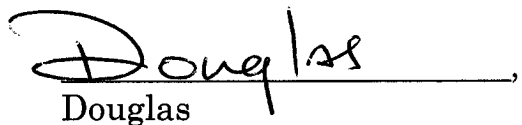
ORDER DENYING PETITION

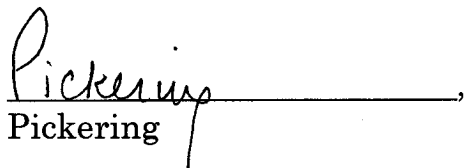
This is a proper person petition for a writ of prohibition or mandamus. Petitioner seeks an order compelling the district court to allow him to file a delayed direct appeal, rather than a petition for a writ of habeas corpus raising any issues that appellant could have raised on direct appeal pursuant to the Lozada remedy. Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994). 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. See NRS 34.160; NRS 34.170; NRS 34.320; NRS 34.330. We note that petitioner is represented by counsel in the matters before the district court and he

should proceed by and through counsel. Accordingly, we

ORDER the petition DENIED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Franklin Dale Heath  
Dan Winder  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk