

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMEER EASSA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
DAVID BARKER, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 55627

FILED

APR 07 2010

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

ORDER DENYING PETITION

This is an original petition for a writ of mandamus. Petitioner Sameer Eassa was charged with burglary and grand larceny by criminal complaint in February of 2007. Eassa remains free outside of Nevada and has not been arraigned. In September 2009, Eassa filed a motion to dismiss the complaint based on prosecutorial delay. The justice court denied his motion, and Eassa challenged the justice court's ruling by filing a pretrial petition for a writ of habeas corpus in the district court. He now requests that this court direct the district court to either dismiss the complaint or issue the writ of habeas corpus.

We have reviewed the documents before this court, and we conclude that this court's intervention in this matter is not warranted. See NRS 34.160; NRS 34.170. Petitioner's challenge to the justice court order has not yet been resolved by the district court—communications with a law clerk do not constitute a ruling. We are confident that the

petition currently pending in the district court will be resolved as scheduling permits.¹

Therefore, we

ORDER the petition DENIED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. David B. Barker, District Judge
Robert W. Lueck, Esq.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹A writ of habeas corpus may only be prosecuted by a person who is unlawfully confined or restrained. NRS 34.360; Garnick v. Miller, 81 Nev. 372, 374-75, 403 P.2d 850, 852 (1965). We note that the submissions to this court fail to establish that Eassa has been restrained of his liberty.