

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUVENAL PEREZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56632

**FILED**

**FEB 09 2011**

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

This is a proper person petition for a writ of mandamus. Petitioner complains that the district court has refused to file his proper person motion to correct an illegal sentence pursuant to EDCR 3.70, stating that he is represented by the public defender's office. However, as petitioner's judgment of conviction was entered on May 6, 2010, and no direct appeal was taken, it appears that the public defender's office is no longer engaged in any active representation of petitioner. Accordingly, EDCR 3.70 would no longer apply.

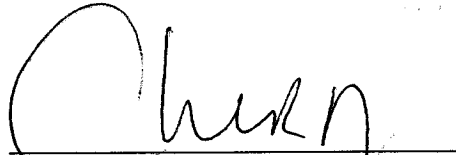
As it appeared from this court's review of the documents before it that the petitioner had set forth issues of arguable merit, and petitioner had no adequate remedy at law, see NRS 34.160; NRS 34.170, this court entered an Order to Show Cause instructing the State to show cause why the writ should not issue. In its response, the State demonstrated no legal basis as to why the writ should not issue.<sup>1</sup> As no

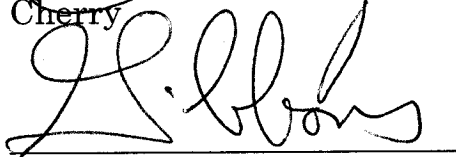
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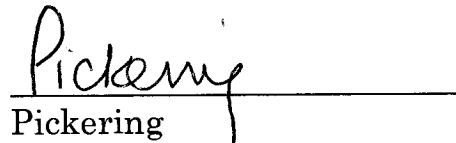
<sup>1</sup>We note that in its response, the State argued that petitioner's motion to correct an illegal sentence lacked merit and was moot, as petitioner has already expired the fixed term at issue. While this may be  
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legal basis appears to deny filing of petitioner's motion from the documents before this court, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the clerk of the district court to file petitioner's Motion to Correct an Illegal Sentence and directing the district court to rule on the motion as expeditiously as its calendar permits.

 J.  
Cherry

 J.  
Gibbons

 J.  
Pickering

cc: Juvenal Perez  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

... continued

true, the merit of petitioner's underlying motion is a matter to be decided by the district court.