

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
ROBERT PHILLIP SCHUMMER,  
Respondent.

No. 56913

**FILED**

**AUG 19 2011**

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting respondent Robert Phillip Schummer's post-conviction petition for a writ of habeas corpus. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge. Although we agree with the State that the district court lacked jurisdiction to grant Schummer habeas relief, Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999), in the unique circumstances of this case, where the petitioner attempted to proceed by arguably appropriate motion, see Nev. Const. art. 6, § 6(1); United States v. Orocio, \_\_\_ F. 3d \_\_\_, \_\_\_, No. 10-1231, 2011 WL 2557232 at \* 4-7 (3d Cir. 2011), but was redirected by the court, we cannot say that the district court abused its discretion or committed clear legal error. Accordingly, we affirm.

Cherry, J.  
Cherry

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Hon. David R. Gamble, District Judge  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Marc Picker  
Douglas County Clerk