


IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN SAMUEL BRAUNSTEIN,
Appellant,
vs.
ROBERT LEGRAND, WARDEN,
Respondent.

No. 57276

FILED

MAY 10 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

In his petition filed on November 18, 2010, appellant claimed that his conviction for two counts of sexual assault of a minor under 14 years of age violated double jeopardy. The district court denied the petition on the grounds that the petition was incorrectly filed in Pershing County as it challenged a conviction that occurred in Clark County. NRS 34.738(1).

NRS 34.738(2) states


A petition that is not filed in the district court for the appropriate county: (a) Shall be deemed to be filed on the date it is received by the clerk of the

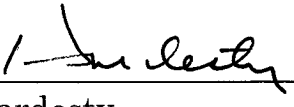
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

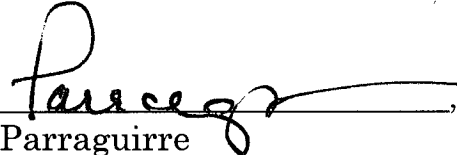
district court in which the petition is initially lodged; and (b) Must be transferred by the clerk of that court to the clerk of the district court for the appropriate county.

Thus, the Pershing County district court erred in denying the petition rather than complying with NRS 34.738(2) by transferring the petition to the Eighth Judicial District Court clerk. Therefore, we reverse the order of the district court and remand for the petition to be transferred to the clerk of the Eighth Judicial District Court with a filed stamped date of November 18, 2010. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, C.J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Richard Wagner, District Judge
Steven Samuel Braunstein
Attorney General/Carson City
Pershing County Clerk