

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH BARLOW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35461

FILED

NOV 06 2002

ORDER OF REVERSAL AND REMAND

CLERK OF THE SUPREME COURT
J. Richards
CLERK

This is a proper person appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Appellant filed a proper person petition in the district court and the State filed an opposition to the petition. Appellant subsequently filed a reply to the opposition. The district court denied the petition on the merits without conducting an evidentiary hearing.

After the docketing of this appeal, this court concluded that our review of additional documents was warranted.¹ Therefore, on November 19, 2001, this court ordered the clerk of the district court to forward the transcript of the proceedings in district court on February 27, 1998, and pages that were missing from the file-stamped copy of the proper person post-conviction petition for a writ of habeas corpus contained in the record previously transmitted by the district court clerk.

¹See NRAP 11(a)(2).


On December 12, 2001, a supplemental record on appeal was filed in this court. The supplemental record on appeal contained the transcript ordered by this court, but did not contain the missing pages from the petition. The missing pages are those attached to the form petition by appellant detailing the claims raised in the petition and the facts supporting those claims. It appears that those pages were numbered by appellant as follows: 8A-8F, 9A-9, 10A-10, and 11A-11.


On March 26, 2002, this court ordered the district court clerk to transmit to the clerk of this court, as a supplemental record on appeal, a complete, file-stamped copy of the proper person post-conviction petition for a writ of habeas corpus filed by appellant on August 19, 1999. On April 5, 2002, the clerk of the district court responded to the order, and informed this court that the pages requested were not part of the record made in the district court.

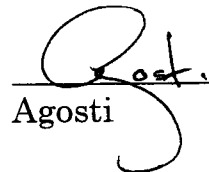
Nonetheless, the district court's order, which was prepared by the State, refers to and addresses the arguments presented in the missing documents. Under these circumstances, this court is unable to effectively review the district court's decision. Moreover, it is unclear to this court how the district court could have resolved claims and argument that were never made part of the record below.

We conclude that the district court's order must be reversed and this case remanded to allow appellant to re-file his petition in its entirety. The litigation of the petition may then proceed according to Chapter 34 of the Nevada Revised Statutes. 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.
Maupin


_____, J.
Rose


_____, J.
Agosti

cc: Hon. Jeffrey D. Sobel, District Judge
Keith Barlow
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk