

IN THE SUPREME COURT OF THE STATE OF NEVADA

NOE GUTIERREZ-PICENO, A/K/A JOE  
G. PICENO,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
RICHARD SCOTTI, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 71777

**FILED**

DEC 16 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DENYING PETITION*

This petition seeks a writ of mandamus directing the respondent district court judge to take further appropriate action to cause the Clark County Public Defender's Office and/or the Clark County District Attorney's Office to turn over petitioner's discovery/records for further collateral proceedings.<sup>1</sup> We are not convinced that our intervention is warranted. The documents provided to this court indicate that the district court denied without prejudice petitioner's motion for order to deliver record and to show cause why public defender's office is not in contempt, affording the public defender's office time to look into petitioner's request for his records. As this matter involves a conviction from 1997 and our records indicate that petitioner has litigated several

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<sup>1</sup>The motion to waive the filing fee is denied because no filing fee was charged in this matter. See NRS 2.250(1)(d)(3).

postconviction habeas petitions since his conviction,<sup>2</sup> petitioner has not met his burden of demonstrating that the district court acted arbitrarily and capriciously or manifestly abused its discretion in denying the motion without prejudice.<sup>3</sup> See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (“Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted.”); *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981) (explaining when mandamus relief is warranted). We therefore

ORDER the petition DENIED.

Cherry, J.

Cherry

Gibbons, J.

Gibbons

Douglas, J.

Douglas

cc: Hon. Richard Scotti, District Judge  
Noe Gutierrez-Piceno  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

<sup>2</sup>See *Gutierrez-Piceno v. State*, Docket No. 57391 (Order of Affirmance, July 13, 2011) (addressing appeal from order denying two postconviction habeas petitions and indicating that petitioner had filed a previous postconviction habeas petition); *Piceno v. State*, Docket No. 64395 (Order of Affirmance, September 16, 2014) (addressing appeal from denial of fourth postconviction habeas petition).

<sup>3</sup>Petitioner implies that the district court has ordered the public defender’s office to transfer its files to petitioner and the office has not complied, but petitioner has not provided any such district court orders.