

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEVON RAY HOCKEMIER,
Petitioner,
vs.
THE FOURTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF ELKO;
AND MARK TORVINEN, DISTRICT
ATTORNEY OF ELKO COUNTY,
Respondents.

No. 71779

FILED

DEC 16 2016

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

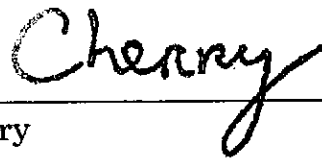
ORDER DENYING PETITION

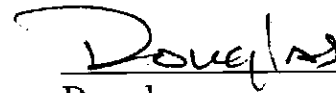
This petition seeks a writ of mandamus directing the respondent district court to immediately rule on pending motions, holding that petitioner has shown good cause under NRS 34.726 to excuse any delay in filing a postconviction petition for a writ of habeas corpus that was caused by the district court's inaction on the pending motions, and changing venue or assigning a different district court judge. We conclude that our intervention is not warranted for three reasons. First, although it is not clear what motions remain pending in the district court as petitioner has not provided file-stamped copies, we expect that any such motions will be resolved expeditiously.¹ Second, any determination of good cause under NRS 34.726 would be premature as it does not appear that petitioner has filed a postconviction habeas petition. In any event, a decision as to good cause must be addressed to the district court in the first instance should


¹It appears from the "formal letter" filed on November 29, 2016, that petitioner's trial counsel has delivered his file to petitioner and therefore complied with NRS 7.055, rendering any pending motion to compel counsel's compliance with NRS 7.055 moot.

petitioner file an untimely postconviction habeas petition. Finally, petitioner has not identified any controlling authority that would require a change of "venue" or judge. Because petitioner has not met his burden to demonstrate that extraordinary relief is warranted, *see Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004), we

ORDER the petition DENIED.


_____, J.
Cherry


_____, J.
Douglas


_____, J.
Gibbons

cc: Hon. Nancy Porter, District Judge
Devon Ray Hockemier
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk