

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUDY M. BARRAZA,
Petitioner,
vs.
THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 72909

FILED

JUL 12 2017

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

ORDER DENYING PETITION IN PART AND GRANTING IN PART


This original petition for a writ of mandamus and/or prohibition seeks an order directing the district court to appoint new counsel to represent petitioner and resolve the postconviction petition for a writ of habeas corpus petitioner filed in district court case number CR-6166A on October 8, 2012. On June 14, 2017, we ordered the real party in interest to inform this court of the status of the petition. The real party in interest informs this court supplemental points and authorities were filed by counsel on June 22, 2015, a supplemental answer was filed on July 7, 2015, and the matter stands fully briefed.


A writ of mandamus may issue "to compel the performance of an act which the law especially enjoins as a duty resulting from an office." NRS 34.160. Because counsel has filed a supplemental petition, we conclude petitioner has failed to demonstrate this court's intervention by way of extraordinary relief with regard to his counsel is warranted. However, NRS 34.740 requires the district court to provide an expeditious

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examination of a postconviction petition for a writ of habeas corpus. The length of delay in the prosecution of this petition has prevented an expeditious examination. Therefore, we conclude mandamus relief is warranted with regard to the resolution of the petition and supplement to the petition, and we

ORDER the petition DENIED IN PART AND GRANTED IN PART AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to place the October 8, 2012, postconviction petition for a writ of habeas corpus and supplement to the petition on its calendar and resolve them.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kimberly Wanker, District Judge
Rudy M. Barraza
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk