

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEL BURKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71725

FILED

JUL 12 2017

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

ORDER OF REVERSAL AND REMAND

Joel Burkett appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on December 7, 2015.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

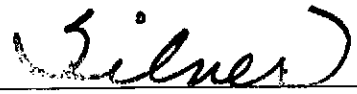
We conclude the district court erred by denying Burkett's petition on the basis the claim raised is not cognizable in a postconviction petition. Burkett argued below and on appeal the Nevada Department of Corrections has incorrectly interpreted his judgment of conviction and how his sentence should be structured. Because Burkett's petition did not challenge the validity of his judgment of conviction or sentence, but rather challenged the computation of time served, the petition was required to be filed in the district court in the county in which he is incarcerated—the Seventh Judicial District Court. See NRS 34.738(1). Burkett filed his petition in the district court in the county in which he was convicted—the Eighth Judicial District Court. Thus, Burkett filed his petition in the

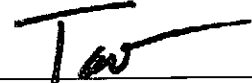
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

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wrong district court. NRS 34.738(2)(b) requires the district court to transfer a petition that is filed in the wrong district court to the appropriate district court. Therefore, we reverse the denial of Burkett's petition and direct the clerk of the Eighth Judicial District Court to transfer Burkett's petition, filed on December 7, 2015, to the clerk of the Seventh Judicial District. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Joel Burkett
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.