

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JONATHAN WAYNE MUNDO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73346

FILED

MAR 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Jonathan Wayne Mundo appeals from an order of the district court denying his May 10, 2017, postconviction petition for a writ of habeas corpus challenging the computation of time he has served.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.


Mundo's petition indicated he was incarcerated outside the Eighth Judicial District, but Mundo filed his petition in the Eighth Judicial District Court. Because Mundo's petition challenged the computation of time he has served, he should have filed it "with the clerk of the district court for the county in which [he] is incarcerated." NRS 34.738(1). Although Mundo filed his petition in the wrong court, rather than denying the petition as procedurally barred,² the district court should have directed


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

²The district court erred by denying the petition as untimely, because the procedural time bar does not apply to petitions that challenge the computation of time served. See NRS 34.726(1). The district court also erred by denying the petition as successive because Mundo was not

the clerk of the court to transfer the petition to the clerk of the district court for the appropriate county. See NRS 34.738(2)(b). Accordingly, we


ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³


_____, J.
Tao


_____, J.
Gibbons

SILVER, C.J., dissenting:

I dissent.


_____, C.J.
Silver

cc: Hon. Susan Johnson, District Judge
Jonathan Wayne Mundo
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

convicted pursuant to a jury verdict, see NRS 34.810(1)(b), and his prior petition was not denied on the merits, see NRS 34.810(2).

³We have considered all documents filed or received in this matter. We conclude Mundo is only entitled to the relief described herein.