

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY DEWANE BAILEY,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND EIGHTH JUDICIAL  
DISTRICT COURT DEPT. 20,  
DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,  
Real Party in Interest.

No. 77166-COA

**FILED**

DEC 19 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK


*ORDER DENYING PETITION*

This original petition for a writ of mandamus seeks an order directing the district court to resolve a motion to correct an illegal sentence that was filed on December 23, 2014. Anthony Dewane Bailey asserts the motion was taken off calendar in 2015. He further asserts that after he requested Judge Johnson to resolve the motion, Judge Johnson stated he lacked jurisdiction to resolve the motion because an appeal from an order denying a postconviction petition for a writ of habeas corpus is pending in the Nevada Supreme Court. We have considered the petition, and we are not satisfied this court's intervention by way of extraordinary writ is warranted at this time. *See* NRS 34.160; *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."). Nevertheless, we note that the pending appeal from an order denying a

postconviction petition for a writ of habeas corpus does not divest the district court of jurisdiction to resolve a motion to correct an illegal sentence. Therefore, we expect the district court to resolve the pending motion to correct an illegal sentence as expeditiously as its calendar permits. Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Eric Johnson, District Judge  
Anthony Dewane Bailey  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

---

<sup>1</sup>The Honorable Jerome T. Tao did not participate in the decision in this matter.