

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY LEE HOBBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75301-COA

FILED

FEB 15 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Timothy Lee Hobbs appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 25, 2017.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

We previously ordered the State to show cause why the district court's order denying Hobbs' petition as untimely should not be reversed. *See Hobbs v. State*, Docket No. 75301-COA (Order to Show Cause, January 25, 2019). Although Hobbs' petition was filed outside the one-year time limit, *see* NRS 34.726(1), it was received by the clerk of the district court within the one-year time limit. And it is the clerk's duty, not the parties', to file submitted documents. *See Sullivan v. Eighth Judicial Dist. Court*, 111 Nev. 1367, 1372, 904 P.2d 1039, 1042 (1995).

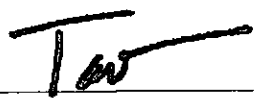
In its response, the State does not dispute that the clerk received the petition within the one-year time limit and states it does not oppose a remand to consider Hobbs' petition on the merits. Because the

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

record demonstrates the district court clerk received the petition within the one-year time limit for filing the petition, we conclude the district court erred by denying the petition as untimely. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court to consider Hobbs' petition on the merits.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas W. Herndon, District Judge
Timothy Lee Hobbs
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk