

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALVON SHONEER SURRELL, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77148-COA

FILED

JUN 19 2019

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

ORDER OF REVERSAL AND REMAND

Alvon Shoneer Surrell, Sr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on August 31, 2018.¹ Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

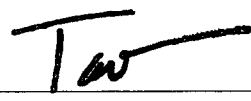
We previously ordered the State to show cause why the district court's order denying Surrell's petition as untimely should not be reversed. *See Surrell v. State*, Docket No. 77148-COA (Order to Show Cause, May 21, 2019). The Nevada Supreme Court's order granting Surrell's request to voluntarily dismiss his direct appeal was filed on November 29, 2017, *see Surrell v. State*, Docket No. 74111 (Order Dismissing Appeal, November 29, 2017), and therefore Surrell had until November 29, 2018, to file a timely petition. *See NRS 34.726(1); Gonzales v. State*, 118 Nev. 590, 596 n.18, 53 P.3d 901, 904 n.18 (2002). Surrell filed his petition well within the one-year time limit.

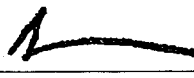
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

In its response, the State concedes Surrell's petition was timely and does not oppose a remand for the district court to consider Surrell's petition on the merits. Because the record demonstrates Surrell filed his 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 for proceedings consistent with this order.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerome M. Polaha, District Judge
Alvon Shoneer Surrell, Sr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk