IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOE THOMAS NOLAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71717

FILED

OCT 1 1 2017

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

ORDER OF REVERSAL AND REMAND

Joe Thomas Noland appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on August 16, 2016.[1] Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Noland filed his petition more than two years after entry of the judgment of conviction on March 27, 2014. Thus, Noland's petition was untimely filed. *See* NRS 34.726(1). Noland's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

In his petition, Noland claimed he had good cause because of the Nevada Supreme Court's recent decision in *McNeill v. State*, 132 Nev. ___, 375 P.3d 1022 (2016), which rendered his conviction and sentence illegal. *McNeill* held the only lawful conditions of lifetime supervision are those expressly enumerated in the supervision statute, NRS 213.1243. 132 Nev. at ___, 375 P.3d at 1025. The district court denied Noland's petition, concluding he was challenging the conditions of his lifetime
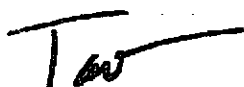
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[1]This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

supervision, and such a claim was not proper for a postconviction petition for a writ of habeas corpus because Noland was not in custody.

We conclude the district court erred by denying the petition. Noland was challenging his conviction for violating the terms of his lifetime supervision, not the conditions of his lifetime supervision. A postconviction petition for a writ of habeas corpus is the proper way to raise a challenge to the judgment of conviction. *See* NRS 34.720. Further, it appears Noland was in custody for his conviction for violating the terms of his lifetime supervision at the time he filed his petition, and any subsequent release from custody would not affect the district court's jurisdiction because Noland continues to face collateral consequences stemming from the conviction. *See Martinez-Hernandez v. State*, 132 Nev. ___, ___, 380 P.3d 861, 864 (2016). Therefore, we reverse the district court's order and remand this case to the district court to determine whether Noland demonstrated good cause to overcome the procedural bars and whether he is entitled to relief. 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

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[2]On remand, the district court may reconsider its decision on whether to appoint counsel to represent Noland in these proceedings. *See* NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).

cc: Chief Judge, Second Judicial District Court
Joe Thomas Noland
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk