

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDMOND WADE GREEN,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN, N.N.C.C.,  
Respondent.

No. 77908-COA

FILED

OCT 22 2019

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

*ORDER OF REVERSAL AND REMAND*

Edmond Wade Green appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Green filed his petition on March 7, 2018, in the First Judicial District Court. Green's petition specifically stated he was challenging the computation of time served as related to the consecutive sentence imposed for the deadly weapon enhancement portion of his conviction. The State filed a motion for change of venue arguing that Green's petition challenged his judgment of conviction, and therefore, should have been filed in the Second Judicial District Court. The First Judicial District Court judge granted the motion and transferred the petition to the Second Judicial District Court. Thereafter, a Second Judicial District Court judge dismissed the petition as procedurally barred. This appeal followed.

Challenges to the computation of time served "must be filed with the clerk of the district court for the county in which the petitioner is incarcerated." NRS 34.738(1). While Green's petition may have included some challenges to the deadly weapon enhancement itself, Green made it clear he was only challenging the enhancement to the extent it affected his parole eligibility and was not challenging his judgment of conviction. At the

time he filed his petition, Green was incarcerated within the jurisdiction of the First Judicial District Court. Therefore, we conclude the First Judicial District Court judge erred by granting the State's motion for change of venue. Accordingly, we reverse the decision of the Second Judicial District Court dismissing the petition, and remand this case to be transferred back to the First Judicial District Court. See NRS 34.738(2) ("A petition that is not filed in the district court for the appropriate count . . . [m]ust be transferred by the clerk of that court to the clerk of the district court for the appropriate county."). Having concluded Green is only entitled to the relief described herein, 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. Egan K. Walker, District Judge  
Edmond Wade Green  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk