

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEVELLE RURAL MERRITTE,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,  
Respondent,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 80149-COA

**FILED**

JAN 24 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

DEVELLE RURAL MERRITTE,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,  
Respondent,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 80187-COA ✓

*ORDER DENYING PETITIONS*

Docket No. 80149 is an original petition for a writ of habeas corpus. Docket No. 80187 is an original petition for a writ of mandamus. In both petitions, Develle Rural Merritte asserts the district court lost jurisdiction over his case after the Nevada Supreme Court entered an order of dismissal in Docket No. 66160 and therefore, the district court exceeded its jurisdiction by conducting further proceedings in his dismissed case. He further asserts that, because the Nevada Supreme Court entered an order of dismissal, his judgment is void and he is being imprisoned without authority of any judgment. Merritte seeks an order directing the clerk of


20-03424

the court to execute judgment in compliance with the Nevada Supreme Court order and he asks this court to discharge him.

We conclude this court's intervention by way of extraordinary writ is not warranted for two reasons. First, Merritte's claim is a challenge to the validity of his judgment of conviction that should be raised either on direct appeal or in a postconviction petition for a writ of habeas corpus filed in the district court in the first instance, *see* NRS 34.724(2)(b).<sup>1</sup> *See* NRS 34.170 (providing a writ of mandamus should only issue where there is no plain, speedy, and adequate remedy at law). Second, Merritte's claim that the district court lacked jurisdiction as a result of the Nevada Supreme Court order lacks merit. The Nevada Supreme Court dismissed Merritte's appeal in Docket No. 66160 for lack of jurisdiction because he failed to designate an appealable order. *See Merritte v. State*, Docket No. 66160 (Order Dismissing Appeal, August 20, 2014). The Nevada Supreme Court's order only addressed jurisdiction over the appeal; it did not conclude that the district court lacked jurisdiction over Merritte or order the district court to dismiss the proceedings against Merritte. Accordingly, we

ORDER the petitions DENIED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

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<sup>1</sup>We express no opinion as to the timeliness of any such direct appeal, *see* NRAP 4(b)(1), or whether Merritte could meet the procedural requirements of NRS chapter 34.

cc: Develle Rural Merritte  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk