

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CEASAR SANCHAZ VALENCIA, A/K/A
CEASAR SANCHEZ VALENCIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81745-COA

FILED

MAY 07 2021

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

ORDER OF REVERSAL AND REMAND

Cesar Sanchaz Valencia appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on May 28, 2020. Eighth Judicial District Court, Clark County; David M. Jones, Judge.

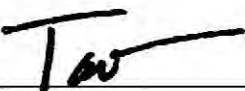
We previously ordered the State to show cause why the district court's order denying the petition as untimely should not be reversed. *See Valencia v. State*, Docket No. 81745-COA (Order to Show Cause, April 9, 2021). Although Valencia's petition was filed outside the one-year time limit, *see* NRS 34.726(1), 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 concedes the clerk received the petition within the one-year time limit. Because the 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.¹ 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. David M. Jones, District Judge
Ceasar Sanchaz Valencia
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The State opposes remand, arguing this court should affirm the denial of Valencia's petition based on the merits of his claims. A disposition on the merits will require factual findings, which is the province of the district court. *Cf. Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005) (noting an appellate court will defer to the district court's factual findings). We therefore decline to consider the merits of Valencia's claims on appeal in the first instance.