

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS GONZALES,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
KATHY A. HARDCASTLE, DISTRICT
JUDGE,

Respondents,

and

DONN M. IANUZI,
Real Party in Interest.

No. 39150

FILED

MAY 30 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT

BY *J. Richard*

ORDER GRANTING MOTION FOR LEAVE TO FILE UNTIMELY
RESPONSE AND DENYING PETITION

This proper person petition for a writ of mandamus requests this court to compel the district court to enforce its order of September 18, 2001, granting petitioner's motion for the transfer of records.

On August 27, 2001, petitioner filed a motion in the district court requesting the district court to approve the withdrawal of Mr. Donn M. Ianuzi as his attorney of record, and to order Mr. Ianuzi to transfer to petitioner pursuant to NRS 7.055 "all Documents, Pleadings, Papers and Tangible Personal Property in counsel's possession." A certificate of service by mail indicates that petitioner served a copy of the motion on the district attorney's office and Mr. Ianuzi. On September 18, 2001, the district court entered a written order granting petitioner's motion. It is unclear whether Mr. Ianuzi was served with a copy of the district court's written order.

On November 20, 2001, petitioner filed a second motion in the district court asserting that he had not received any materials from Mr. Ianuzi and requesting the district court to enforce its prior order and

direct Mr. Ianuzi to immediately forward to petitioner all of the documents and files in Mr. Ianuzi's possession.¹ Petitioner attached to his motion a copy of a letter that he had sent to Mr. Ianuzi requesting the records. On December 7, 2001, the district court entered a written order summarily denying petitioner's motion without explanation.

On December 21, 2001, petitioner filed a motion for reconsideration or clarification of the district court's order. Petitioner requested an explanation for the district court's denial of his motion seeking enforcement of the order of September 18, 2001, and again requested the district court to enforce that order. On January 14, 2002, the district court entered a written order summarily denying without explanation petitioner's motion for reconsideration and clarification. Petitioner then filed the instant original petition for a writ of mandamus in this court, requesting this court to compel the district court to enforce its order of September 18, 2001.

This court's preliminary review of the petition revealed that a response from Mr. Ianuzi would assist this court in resolving the issues presented. Accordingly, this court ordered the real party in interest Mr. Ianuzi to file a response to the instant petition within 30 days, explaining whether or to what extent he had complied with the district court's order of September 18, 2001, and providing this court with affidavits or other factual documentation pertinent to this court's understanding of the matters set forth in the petition.

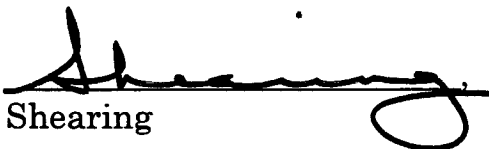
On May 6, 2002, Mr. Ianuzi filed a motion for leave to file an untimely response to this court's March 21, 2002 order. Good cause

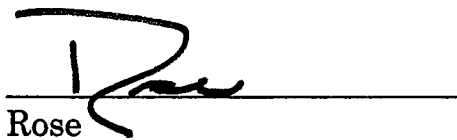
¹Petitioner again attached a certificate of service by mail indicating that he had served a copy of the motion by mail on the district attorney's office and Mr. Ianuzi.

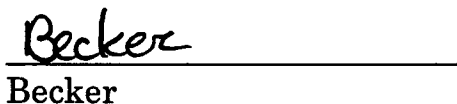
appearing, we grant Mr. Ianuzi's motion and direct the clerk of this court to file the response received on May 6, 2002.

In his response, Mr. Ianuzi has demonstrated that he will fully comply with the district court's September 18, 2001 order. Mr. Ianuzi informs this court that he had previously provided a copy of petitioner's case file to petitioner's wife. Because petitioner did not receive the file, Mr. Ianuzi informs this court that he will mail the entire case file to petitioner at the Lovelock Correctional Center on May 4, 2002. Mr. Ianuzi further explains that at the time petitioner's original motion was sent to Mr. Ianuzi that his former office address was subject to a type of mail fraud, which caused some of his mail to be diverted. Mr. Ianuzi has satisfied this court's order directing a response and this court's concerns regarding compliance with the district court's September 18, 2001 order. Therefore, we conclude that this court's intervention by way of extraordinary relief is not warranted at this time.² Accordingly, we

ORDER the petition DENIED.³

 J.
Shearing

 J.
Rose

 J.
Becker

²See NRS 34.160.

³We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. Kathy A. Hardcastle, District Judge
Attorney General/Carson City
Clark County District Attorney
Nye County District Attorney/Tonopah
Donn M. Ianuzi
Jesus Gonzales
Clark County Clerk