

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY DEAN DILLMAN,
Petitioner,

vs.

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

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 40405

FILED

DEC 18 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION

This is a proper person petition for a writ of mandamus seeking an order granting petitioner's motion to place matter back on calendar, reconsideration of petitioner's motion for appointment of counsel, and an opportunity to prepare an amended habeas corpus petition.

On December 11, 2000, petitioner filed a timely post-conviction petition for a writ of habeas corpus in the district court. On December 26, 2000, petitioner filed a motion for leave to file an amended habeas corpus petition. The district court granted petitioner's motion on January 11, 2001, and gave petitioner until January 29, 2001 to file an amended habeas corpus petition.

On January 30, 2001, petitioner filed a motion for extension of time to file an amended habeas corpus petition. On March 16, 2001, the district court granted petitioner's motion. Pursuant to the district court's extension, petitioner's amended habeas corpus petition was to be filed in the district court by July 9, 2001.

On June 22, 2001, petitioner filed a second motion for extension of time to file an amended habeas corpus petition. The State opposed the motion, and petitioner filed a reply. Petitioner also filed a motion for the production of his case files from his former attorney. The August 8, 2001 district court minutes state, "Court noted the Defendant has not received the files from his lawyer and ORDERED, motions GRANTED." The district court further ordered a status check on August 15, 2001 regarding the production of files. On August 15, 2001, the district court was advised that a copy of the file was received and would be forwarded that day. The district court then ordered the matter off calendar. Petitioner further contends that he submitted a motion for the appointment of counsel on August 8, 2001.

Petitioner took no further action in this matter until April 4, 2002. At that time, petitioner contends that having heard nothing regarding his second motion for extension of time to file an amended habeas corpus petition, motion for production of files, and motion for the appointment of counsel, petitioner wrote a letter to the district court inquiring about the motions and a letter to the clerk of the district court requesting copies of the minutes. Upon receiving the minutes, petitioner

alleges that he discovered that his second motion for extension of time to file an amended habeas corpus petition had been granted in August of 2001.


On May 9, 2002, petitioner filed a motion to place the matter back on the court's calendar. Petitioner also filed a motion for the appointment of counsel. On June 20, 2002, the district court denied petitioner's motion to place the matter back on calendar and motion for the appointment of counsel. Petitioner appealed, and this court dismissed the appeal for lack of jurisdiction.¹ Petitioner filed a motion for reconsideration, and the district court denied the motion.

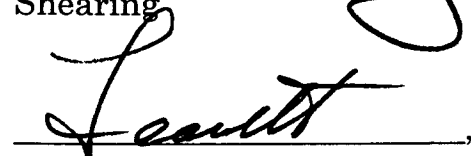
Petitioner asserts that the district court erred in denying his motion to place the matter back on calendar. Petitioner claims that he was never notified that the district court granted his second motion for extension of time to file habeas corpus petition and his motion for production of files. Petitioner further asserts that the district court has denied him a ruling on his December 11, 2000 habeas corpus petition by taking the matter off the court's calendar. In light of the above, petitioner would like the district court to place the matter back on the district court's calendar, reconsider his motion for the appointment of counsel and provide him with sufficient time to file an amended habeas corpus petition.

¹Dillman v. State, Docket No. 39877 (Order Dismissing Appeal, August 21, 2002).

We have considered the petition on file herein, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.² In denying petitioner's motion to place the matter back on calendar, motion for appointment of counsel and motion for reconsideration, the district court rejected petitioner's request for a further opportunity to amend the habeas corpus petition. Thus, we decline to intervene regarding these motions. We are confident that the district court will resolve petitioner's December 11, 2002 habeas corpus petition as the court's calendar permits. Accordingly, we

ORDER the petition DENIED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Lee A. Gates, District Judge
Attorney General/Carson City
Clark County District Attorney
Gary Dean Dillman
Clark County Clerk

²See NRS 34.160.