

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK MILFORD PECK,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
BRENT T. ADAMS, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 60040

FILED

APR 16 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malin*
DEPUTY CLERK

ORDER GRANTING PETITION

This is a proper person petition for a writ of mandamus. Petitioner requests that this court issue a writ of mandamus ordering the district court to consider his proper person post-conviction petition for a writ of habeas corpus filed August 7, 2008.

This court ordered the State to show cause why the writ should not issue. The State responded and included a copy of an order filed February 10, 2012, in which the district court stated that the issues had been resolved by its order of February 9, 2011. This court had previously directed the district court to expeditiously examine the petition because it already determined that the district court's February 9, 2011, order did not dispose of the 2008 petition. Peck v. State, Docket No. 57968 (Order Denying Rehearing, September 15, 2011). The only petition the district court's 2011 order referenced was appellant's "first amended petition for a writ of habeas corpus (post-conviction)," which was filed on April 28, 2010. Neither the 2010 petition nor the district court's order

referenced the 2008 petition and thus the order could not have disposed of that petition. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to file a written order, including findings of fact and conclusions of law, disposing of the August 7, 2008, post-conviction habeas petition.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Brent T. Adams, District Judge
Frank Milford Peck
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk