

Donte Johnson - 66858
Ely State Prison
P.O. Box 1989
Ely, Nevada
89301

FILED

AUG 13 2014

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

PROPER PERSON
RECEIVED/ENTERED

JUL 21 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

Case Number 65168

Nevada Supreme Court
201 South Carson Street
Carson City, Nevada

RE: Donte Johnson V. State of Nevada, case number 65168
To the court:

Beginning prior to my writ to this court in case no. 51306, and the briefing by counsel underway in the current appeal. My best efforts to have counsel raise all of my meritorious substantive claims before the courts have been unsuccessful.

The purpose of this letter is to request that the court, in the interest of justice, allow me to file a supplemental opening brief to address (both) the issue of repeated unrecorded conferences at trial (59 to court) consistent with this court's prior order in case 51306⁽¹⁾; and to address the recent recantation by codefendant Lilia Smith. See attached Exhibit B.

Because both these issues negatively affected my substantial rights to a fair trial and post trial proceedings, in addition to my failed efforts to have counsel raise them, there then exists no effective remedial recourse other than to ask this court, as I now do, to allow me permission to raise them myself in a supplemental brief.

Respectfully,

Donte Johnson

(1) In this court's 5/6/08 order it held that an "adequate remedy existed to challenge the effective assistance of counsel through post conviction proceedings." However, post-conviction counsel still failed to raise it. See attached Exhibit A.

RECEIVED

JUL 18 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

14-23561

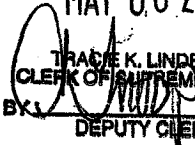
Exhibit
A

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTE JOHNSON,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51306

FILED

MAY 06 2008
TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DENYING PETITION

This is a proper person petition for an extraordinary writ in a death penalty case. Petitioner seeks an order vacating this court's decision in his direct appeal after a second penalty hearing¹ or, in the alternative, an order granting him a new trial. It appears that petitioner's claims of error raised in his writ petition are grounded in allegations of ineffective assistance of trial and appellate counsel. 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

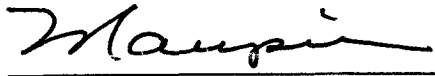
¹Johnson v. State, 122 Nev. ___, 148 P.3d 767 (2006).

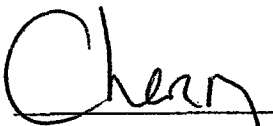
²See NRS 34.160; NRS 34.170; NRS 34.320; NRS 34.330.


08-11256

Petitioner has an adequate remedy to challenge the effective assistance of counsel through post-conviction habeas proceedings.³ Accordingly, we

ORDER the petition DENIED.⁴

 J.
Maupin

 J.
Cherry

 J.
Saitta

cc: Hon. Jackie Glass, District Judge ✓
Donte Johnson
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

³See NRS 34.720 - .830.

⁴We express no opinion concerning whether petitioner has satisfied the procedural requirements detailed in NRS chapter 34 for filing a petition for a writ of habeas corpus or the merits of any claim of ineffective assistance of counsel.

Declaration OF SIKIA L. Smith

I, SIKIA Lafayette Smith, declare:

on or about 9/8/98 I gave authorities a recorded Voluntary Statement inculpat~~ing~~ my co-defendant Donte Johnson in a homicide.

For years I've been trying to recant my statements to police, as they are not an accurate account of the events that took place which resulted in Donte Johnson ultimately being convicted of his charged crimes.

Donte Johnson was not, in any way, involved in the murders and related robberies, kidnappings or home invasion for which he was convicted.

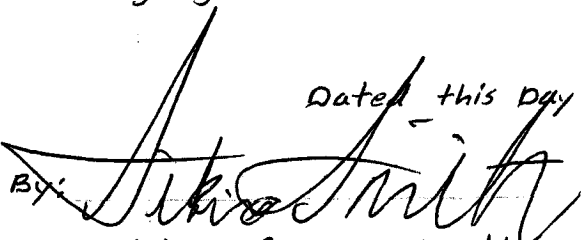
I have my reasons as to why I gave authorities the false statements implicating Donte Johnson, I just need a chance to explain them.

At this point in time, this Declaration is the only avenue available to me, to make the court aware that my statements to police inculpat~~ing~~ Donte Johnson were not true.

I declare under penalty of perjury that the foregoing Declaration is true and accurate.

Dated this day of June 10th 2014

By:


SIKIA Lafayette Smith
P.O. Box 1489
Ely, Nevada
89301

CC# Eighth Judicial Dist. Court
Steve Wolfgang, Clark County D.A.