

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,
vs.
WILLIAM HUTCHINGS, WARDEN;
STEVEN B. WOLFSON, DISTRICT
ATTORNEY; AND THE STATE OF
NEVADA,
Respondents.

No. 82645-COA

FILED

OCT 13 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER TO SHOW CAUSE


This is a pro se appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus. The district court denied Craig Allen Rodgers' petition as procedurally time-barred because it was filed more than one year after entry of Rodgers' judgment of conviction. *See* NRS 34.726(1).

Our review of the record indicates the district court may have erred by concluding the petition was untimely. Entry of the judgment of conviction occurred on August 23, 2019, so Rodgers' petition had to be filed by August 23, 2020, to be timely. *See id.* The district court determined Rodgers' petition was untimely because it was filed on August 31, 2020. However, the petition was received by the clerk on August 20, 2020, 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). It thus appears Rodgers' petition was timely submitted to the clerk for filing and it was the clerk's delay in filing the petition that resulted in it being filed beyond the one-year time limit. Accordingly, it would

appear the district may have abused its discretion by denying the petition as untimely.

Accordingly, the State shall have 20 days from the date of this order to show cause why this court should not reverse the district court's order denying Rodgers' petition as untimely and remand for the district court to consider his petition on the merits. The State's response shall not exceed 15 pages in length and must comply with the provisions set forth in NRAP 32(a). The State may cite to either the record on appeal or any appendix filed with the response.

It is so ORDERED.


_____, C.J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk