

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND, THE HONORABLE
JACKIE GLASS, DISTRICT JUDGE,
Respondents,
and,
MICHAEL RAY HOGAN,
Real Party in Interest.

No. 44054

FILED

NOV 15 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition by the State for a writ of prohibition or mandamus. The district court is considering the third post-conviction petition filed in state court by Michael Ray Hogan, the real party in interest. The State seeks extraordinary relief from this court, maintaining that the district court has disregarded the procedural bars applicable to the claims raised in Hogan's habeas petition.

Hogan's petition is 234 pages long and enumerates 29 grounds for relief. The record before us includes district court minutes which indicate that the district court "by pass[ed] the procedural bar" and ordered an evidentiary hearing on one claim asserted in that petition. The record includes no transcript or written order explaining the district court's ruling, and the State's petition to this court does not discuss the district court's rationale, or possible lack thereof, for its order. The State simply argues in general that because Hogan's habeas petition is untimely and successive, every claim in it must be procedurally barred in some way.

The State does not address the applicability of procedural bars to the one claim that the district court ordered an evidentiary hearing on. We are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.¹ Accordingly, we

ORDER the petition DENIED.

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

cc: Hon. Jackie Glass, District Judge
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Glynn B. Cartledge
Richard F. Cornell
Clark County Clerk

¹See NRS 34.160; NRS 34.320.