

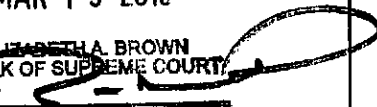
IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDRICK J. BENSON,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74498

FILED

MAR 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

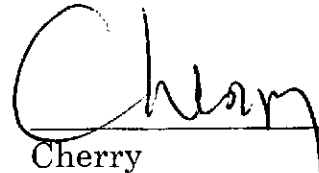
ORDER GRANTING PETITION

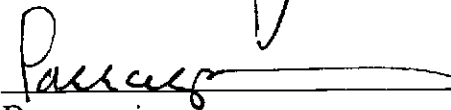
This petition for a writ of mandamus seeks an order directing the respondent to file and consider his motion to obtain a copy of a sealed record (presentence investigation report). Petitioner indicates that he has previously filed a motion to obtain a copy of the presentence investigation report but that his motion was not considered and was returned unfiled by the district court clerk because he was allegedly represented by counsel. In response, the real party in interest argues that the petition should be denied because the motion was filed on September 18, 2017, and petitioner has not complied with the district court's directions to file a motion to unseal the records.


Having reviewed the documents presented to this court, we conclude that relief is warranted. *See* NRS 34.160; NRS 34.170. Although the State is correct that the motion to obtain a copy of the sealed record was filed in the district court, and thus petitioner is not entitled to any relief on this basis, the motion remains pending in the district court and has not been considered. And contrary to the State's assertion, petitioner requested that

the presentence investigation report be unsealed in his September 2017 motion.¹ Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to resolve the motion filed on September 18, 2017, within 30 days from the date of this order.


_____, J.
Cherry


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Carolyn Ellsworth, District Judge
Fredrick J. Benson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹While the presentence investigation report may be unsealed for the purpose of providing a copy to petitioner, it may not be made a part of the public record. See NRS 176.156(5). Further, contrary to the correspondence from the district court clerk, petitioner may not be required to pay a fee for a copy of the presentence investigation report. See NRS 19.013(5).