

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY K. ANDERSON,  
Appellant,  
vs.  
JO GENTRY, WARDEN,  
Respondent.

No. 75313

FILED

SEP 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Anthony K. Anderson appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on February 6, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Mark B. Bailus, Judge.

The record on appeal reveals that on February 28, 2017, the district court found that Anderson had not served his “petition on the State of Nevada nor the Nevada Attorney General” and gave him until June 8, 2017, to serve the petition. On March 17, 2017, Anderson filed a document in the district court in which he stated his petition had been served on the Office of the Attorney General and on which he attached a signed certificate of service. On June 8, 2017, the district court found that Anderson had had sufficient time to serve the petition and ordered his petition dismissed with

---

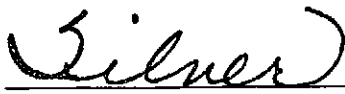
<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

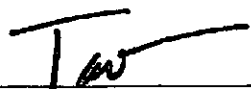
prejudice for his failure to serve the respondent. Thereafter, Anderson filed a notice of appeal.<sup>2</sup>


On January 29, 2018, the district court entered an order that acknowledged Anderson had served the petition on the Office of the Attorney General on March 17, 2017, vacated the order dismissing Anderson's petition, and set the matter for a status check on February 6, 2018. Anderson was not present at the February 6, 2018, status check. The district court minutes indicate he was not transported to the courthouse in a timely manner and the hearing had been continued for a further status check on March 14, 2018.

On February 23, 2018, the district court found that Anderson had sufficient time to serve the petition and ordered his petition dismissed with prejudice for his failure to do so. We conclude the district court's factual finding is not supported by the record on appeal, which reveals Anderson served his petition on the Office of the Nevada Attorney General on March 17, 2017. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

<sup>2</sup>Although the record on appeal does not include an appellate court order resolving Anderson's prior appeal, the district court minutes indicate the case was remanded to the district court on January 29, 2018.

cc: Hon. Mark B. Bailus, District Judge  
Anthony K. Anderson  
Attorney General/Carson City  
Eighth District Court Clerk