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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-37885

REILLY JOHNSON,

Petitioner-Petitioner,

v.

**NEW MEXICO ADULT PAROLE
BOARD, ABRAM ANAYA, CARYN
APODACA, SANDRA DIETZ, ELLA
FRANK, AMY LOVERIDGE, JOANN
MARTINEZ, SHERRY STEPHENS,
and MARY THOMPSON,**

Respondents-Respondents.

**APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
Gregory S. Shaffer, District Judge**

Reilly Johnson
Clayton, NM

Pro Se Petitioner

Hector H. Balderas, Attorney General
Miguel Lozano, Assistant Attorney General
Santa Fe, NM

for Respondent

MEMORANDUM OPINION

VARGAS, Judge.

{1} Petitioner Reilly Johnson petitioned for a writ of certiorari, seeking review of the district court's order denying his petition for writ of certiorari and dismissing his appeal with prejudice, as well as the district court's order denying Petitioner's motion to

reconsider. On appeal, Petitioner contends that the district court erred in denying his petition for writ of certiorari on timeliness grounds. Petitioner sought to appeal the decision of the New Mexico Adult Parole Board regarding his case. The district court denied his petition for writ of certiorari because it was filed on April 27, 2018, which was more than thirty days after the final decision was filed, on March 26, 2018. The district court held that this violated Rule 1-075(D) NMRA, which requires that a petition for writ of certiorari be filed in the district court within thirty days of the final order. Petitioner argued that he, as a prisoner, did not receive the final decision until April 2, 2018.

{2} This Court issued a notice of proposed disposition, proposing to agree with Petitioner and reverse the district court. We suggested that the district court erred under both Rule 1-005(H) NMRA, which provides for filing and service by an inmate, and our case law on unusual circumstances that justify untimely filings. In response, the State has filed a notice of its intent not to file a memorandum in opposition to our notice of proposed disposition.

{3} Accordingly, we rely on the reasoning contained in our notice of proposed disposition and we reverse the district court's denial of Petitioner's petition for writ of certiorari on untimeliness grounds and dismissal of Petitioner's appeal.

{4} IT IS SO ORDERED.

JULIE J. VARGAS, Judge

WE CONCUR:

JACQUELINE R. MEDINA, Judge

BRIANA H. ZAMORA, Judge