

No. 85109

FILED

FILED

Keith Sullivan ID NO. 92630

OCT 03 2022

AUG 30 2022

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89010

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

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

NEVADA SUPREME  
~~IN THE SECOND JUDICIAL DISTRICT COURT~~  
~~IN THE COUNTY OF WASHINGTON STATE~~  
OF NEVADA and the 2nd JUDICIAL DIST. COURT.

Keith Sullivan  
Petitioner

v.

Perry Russell, warden, et al  
Respondents

CASE NO.: CR18-0427

DEPT. NO.: Eight

DOCKET:

Motion to Admit Second Petition for Writ of Habeas  
Corpus

COMES NOW, Keith Sullivan Petitioner IN PRO SE, herein above respectfully  
moves this Honorable Court for an admission of a second petition for  
Writ of Habeas Corpus

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 22nd day of AUGUST, 2022

BY: [Signature]  
Keith Sullivan # 92630  
Defendant In Proper Personam

22-31139

~~22-27172~~

~~FACTS OF THE CASE:~~ FACTS OF THE CASE:

1 This motion follows the dismissals of my original Nov. 10, 2021,  
2 Petition for writ of Habeas Corpus by the second Judicial District  
3 Court on July 12, 2022 and the Nevada Supreme Court on Aug 10, 2022.  
4 ~~That petition~~ Those decisions have now been appealed to the Nevada  
5 Supreme Court. The grounds within this second petition were  
6 originally presented to both courts as an Amended Petition for  
7 writ of Habeas Corpus but were dismissed as moot.

8 Admissibility

9 Although NRS 34,735 directs petitioners to include in the petition  
10 all grounds or claims for relief regarding the conviction or sentence  
11 and warns petitioners that failure to do so could preclude them  
12 from filing future petitions, 6 and NRS 34,810 ~~provides~~ provides  
13 for dismissal of claims that could have been or were raised in  
14 a prior post-conviction proceeding, NRS 34,810 (1)(b), (2), Brown  
15 v. McDaniel 331 P.3d 867, 2014 Nev. LEXIS 78, 130 Nev. Adv. Rep. 60,  
16 No. 60065 (331 P.3d 870) outlines the provisions to overcome these  
17 bars. From Brown v. McDaniel (331 P.3d 870):

18 "To overcome these statutory procedural bars, a petitioner  
19 must demonstrate 'good cause' for the default and  
20 actual prejudice. NRS 34,726(1); NRS 34,810(3). We have  
21 defined 'good cause' as a 'substantial reason' that affords  
22 a legal excuse. Hathaway v. State, 119 Nev. 248, 252, 71 P3d  
23 503, 506 (2003) (internal quotations omitted). To show good cause,  
24 a petitioner must demonstrate that an 'impediment  
25 external to the defense' prevented him from comply  
26 -ing with the procedural rules. Passanisi v. Dir., Nev.  
27 Dep't of Prisons, 105 Nev. 63, 66, 769 P.2d 72, 74 (1981)

1 Citing ~~Murray~~ v. Carrier, 477 U.S. 478, 106 S. Ct 2639, 91  
2 L. Ed 2d 397 (1986); see also, Pellegrini v. State, 117 Nev. 860,  
3 886, 34 P.3d 519, 537 (2001)."

4 The good cause for my originally filing these grounds as an  
5 Amended Petition for Writ of Habeas Corpus on June 17<sup>th</sup>, 2022 and  
6 Now, again, in this Second Petition for Writ of Habeas Corpus beyond  
7 the one-year limit from the Nevada Supreme Court's remittitur, which  
8 I received on Dec. 20<sup>th</sup>, 2020, ~~which~~ <sup>was</sup> the Nevada Dept. of Corrections  
9 closures of its law libraries, in response to the COVID-19 pandemic,  
10 to physical access by inmates. The actual prejudice was that  
11 I wasn't able to research case law, books and all other legal  
12 material(s) ordinarily available to inmates, nor was I able to have  
13 contact ~~with~~ <sup>with</sup> persons trained in the law." Thus, from Aug. 2021 through  
14 May 20<sup>th</sup>, 2022, I was denied my constitutional right to access  
15 to the courts in violation of my first amendment right to petition  
16 the government with my grievances.

17 Points and ~~Authorities~~ Authorities

18 "The Court's task in cases alleging violation of the right to court  
19 access is not an easy one. On the one hand, 'the importance of the right  
20 cannot be overstated. It is the right upon which all other rights  
21 depend.' Casey v. Lewis 43 F.3d 1261, 1266 (1994) Cert. ~~denied~~ <sup>granted</sup>, 115 S. Ct  
22 1997, 131 L. Ed 2d 999 (1995). Access to the courts must be, 'adequate  
23 effective and meaningful.' Bounds v. Smith 430 U.S. 817, 822, 52 L. Ed 2d  
24 72, 975, Ct 1491 (1977). The requirement is adequate assistance in the  
25 preparation and filing of meaningful papers from 'persons trained in  
26 the law.' Bounds, 430 U.S. at 828. In Bounds, the Supreme Court,  
27 emphasizing that 'meaningful access to the court is the touchstone'

1 dissected district courts to evaluate court access programs as a  
2 whole. ~~430~~ 430 U.S. at 832, 975. Ct 1491, 52 L. Ed 72

3 "The Court has previously noted that a paging system whereby  
4 a plaintiff may request specific law books but is not given physical  
5 access to a law library or to a person trained in the law does not  
6 meet the constitutional requirement of meaningful access to the  
7 courts (#40, pg 6). Toussaint v. McCarthy 801 F.2d 1080, 1109-1110  
8 cert. denied, 481 U.S. 1069, 95 L. Ed 2d 871, 1075. Ct 2482 (1987); Casey  
9 v. Lewis, 43 F.3d 1261 (1994)" Spann v. Garcia 172 F.R.D. 418,  
10 CV-N-92-646-DWH(RLH) (1996), (see also, Koerschner v. Warden,  
11 508 F. Supp 2nd 249 (2007) and Williams v. Leeke 584 F.2d 1336 (4th  
12 Cir. 1978) cert. denied, 442 U.S. 911, 995. Ct 2825, 61 L. Ed 2d 276 (1979))

### 13 Additional Facts of the case.

14 AS can be seen from the attached documents, ~~the NPOC's~~  
15 ~~denial~~ <sup>first</sup> denial of my access to the law library occurred on Aug.  
16 30th, 2021. (See, Inmate Request Form, originally presented to the  
17 second Judicial Dist. Court in Petitioner's Addendum to Petitioner's Ex  
18 Parte Motion for Appointment of Counsel, filed Dec. 1st, 2021.)  
19 The successive documents show my continued attempts to access  
20 the NPOC's law libraries before my one-year time-limit expired.  
21 Of note is the fact that on April 28th, 2022, I was transferred from  
22 Warm Springs corr. ctr. to Southern Desert corr. ctr. without my legal  
23 papers and placed in an Administrative Segregation unit pending classif  
24 ication until late-May, 2022. (See attached Inmate Informal Grievance  
25 Forms) During that time I was unable to access the law library but  
26 on May 20th, 2022, Governor Sisolak lifted his State-of-emergency  
27 order and inmates were then able to access the law libraries.



1 It was only then that  
2 ~~the grounds~~ I was able to discover and present the grounds  
3 of the June 17th, 2022, Amended Petition for writ of Habeas corpus  
4 that the courts have now dismissed as moot.

5 ~~22. RELEVANT FACTS (I will state briefly, without citing cases or law):~~

## 6 CONCLUSION

7 But for the exceptional circumstance, the unprecedented,  
8 extraordinary, state-of-emergency brought on by the world-wide  
9 pandemic of COVID-19, I would have had meaningful access to  
10 the courts by being able to research and present 'adequate,  
11 effective and meaningful papers' and/or had access to and contact  
12 with 'persons trained in the law', ~~therefore~~ by being given physical  
13 access to the NDJC's law libraries. Since I was denied that  
14 access from Aug, 2021 through May, 2022, this second Petition  
15 for writ of Habeas corpus is my first attempt to present these  
16 grounds for review upon their merits.

17 The motion I now present to Admit Second Petition for writ  
18 of Habeas corpus presents the ~~extraordinary~~ "extraordinary circumstances"  
19 envisioned by Brown v. McDaniel and Pellegrini v. State allowing  
20 a petitioner to file a second petition and therefore should be  
21 granted.

22 Since this second Petition for writ of Habeas corpus contains  
23 grounds that the second Judicial District court has ruled it does  
24 not have the jurisdiction to decide (see S.J.D.C.'s second omnibus  
25 order, pg.4, lines 1-17, dated July 12, 2022) I am filing it ~~contemp~~  
26 -oraneously with the Nevada Supreme Court as allowed for by  
27 Blair v. Crawford 275 F.3d 1156, (2002).

LIST OF EXHIBITS FOR AUG. ~~2022~~, 2022 MOTION ~~FOR~~ TO ADMIT  
SECOND PETITION FOR WRIT OF HABEAS CORPUS:

- #1: Inmate Request Form, dated 8/30/21
- #2: Inmate Law Library Request Form, dated 9/14/21
- #3: Medical Rite and Service Report, dated 10/5/21
- #4: Nevada Dept. of Corrections Informal Grievance, dated 9/16/21
- #5: Nevada Dept. of Corrections Informal Grievance, dated 8/4/22.

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Keith Sullivan	92630	4 C-17 ✓	8/30/21

4.) REQUEST FORM TO: (CHECK BOX)

CASEWORKER       MEDICAL       MENTAL HEALTH       CANTEEN

EDUCATION       VISITING       LAW LIBRARY       DENTAL

LAUNDRY       PROPERTY ROOM       SHIFT COMMAND       OTHER \_\_\_\_\_

5.) NAME OF INDIVIDUAL TO CONTACT: MS. Dunbar

6.) REQUEST: (PRINT BELOW) I need to be scheduled to do research @ the Law Library.

Respectfully,  
7.) INMATE SIGNATURE [Signature] DOC # 92630  
8.) RECEIVING STAFF SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

9.) RESPONSE TO INMATE

Due to covid protocols, no research is being scheduled at this time

10.) RESPONDING STAFF SIGNATURE [Signature] DATE \_\_\_\_\_

# Inmate LAW LIBRARY Request Form:

**\*\*Please write legibly or your request may be delayed\*\***

1. Inmate Name: <i>Keith Sullivan</i>	NDOC #: <i>92630</i>	Housing Unit: <i>4, C-17</i>	Date: <i>9/14/21</i>
--	-------------------------	---------------------------------	-------------------------

Supervisor request:	
General questions:	<input checked="" type="checkbox"/>
Address request:	<input type="checkbox"/>
Other:	<i>Computer Research</i>

Law Library I/M assistance:	
Topical search	
Caselaw request	
Copy work:	

Miscellaneous:	
NSF:	
Legal Supplies:	
Other:	

**REQUEST:** I requested access to the Law Library computer on 9/30/21. I am acting in Pro Se - i.e., as my own attorney - in my appeal to the Federal District court of Nevada. Therefore, I need unrestricted access to the Law Library's database of Law Books. The response to my previous Inmate Request Form was, "Due to covid protocols, no research is being scheduled at this time." This is unacceptable. I have to respond within 30 days of the state's response to my writ of Habeas corpus. I can't do that without access to the Law Library.

Inmate signature: <i>Keith Sullivan</i>	NDOC # <i>92630</i>
---	---------------------

**RESPONSE:**

As previously stated, due to covid protocol we are not scheduling legal computer research in the law library at this time. Please put your requests on a case-law request form and the law library will forward requested material to your assigned housing location.

Responding staff: <i>dm...</i>	Date: <i>SEP 15 2021</i>
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NAME Keith Sullivan ID# 92630 Unit/Cell# Unit cell 4, E-17  
FACILITY NNCC DATE 10/5/21 SIGNATURE Keith Bullock

Request:  
I need an official confirmation that unit 4 is quarantined, that neither I nor the unit 4 inmate Law Library "runner" used ~~for~~ for the so-called paging system, are allowed to leave the building.

**INMATES - DO NOT WRITE IN AREA BELOW  
ASSIGNED TO**

Medical     Dental     Psychiatry     Nursing     Other \_\_\_\_\_

Response to request  
REFER TO CUSTODY RE: QUARANTINE INFORMATION/STATUS.

- Appointment scheduled/rescheduled for: \_\_\_\_\_
- No visit necessary
- No show for appointment
- Refused to be seen. DOC 2523 Release of Liability signed

**PRESCRIPTIONS**

KOP     NON-KOP  
 Order date \_\_\_\_\_

**PLAN**

Follow-up appointment \_\_\_\_\_     Return if needed  
 No follow-up required

Signature of practitioner/responder \_\_\_\_\_ Date \_\_\_\_\_

NEVADA DEPARTMENT OF CORRECTIONS  
**MEDICAL KITE and SERVICE REPORT**

Log Number 200703178172

NEVADA DEPARTMENT OF CORRECTIONS  
INFORMAL GRIEVANCE

NAME: Keith Sullivan I.D. NUMBER: 92630

INSTITUTION: NNCC UNIT: 4

GRIEVANT'S STATEMENT: I filled out an Inmate Request Form on Aug. 30th, 2021 (see attached) requesting access to the Law Library to do research into case-law necessary for the appeal of my criminal sentence. Ms. Dunbar, the Law Library supervisor, responded, "due to covid protocols no research"

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Keith Sullivan DATE: 9/16/21 TIME: 4:30 PM

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 9/20/21 TIME: 1500

GRIEVANCE RESPONSE: \_\_\_\_\_

CASEWORKER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

GRIEVANCE UPHELD  GRIEVANCE DENIED  ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: [Signature] DATE: 10/1/21

INMATE AGREES  INMATE DISAGREES

INMATE SIGNATURE: Keith Sullivan DATE: 11/9/21

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FIRST LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

- Original: To inmate when complete, or attached to formal grievance
- Canary: To Grievance Coordinator
- Pink: Inmate's receipt when formal grievance filed
- Gold: Inmate's initial receipt

RECEIVED ✓  
SEP 21 2021  
NNCC

NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Keith Sullivan I.D. NUMBER: 92630

INSTITUTION: MNCC UNIT #: 4

GRIEVANCE #: N/A GRIEVANCE LEVEL: informal

GRIEVANT'S STATEMENT CONTINUATION: PG. Two OF three

is being scheduled at this time. " This is unacceptable,  
I am acting in Pro Se - i.e., as my own attorney, AS  
Such I need full access to the Law Library's books and  
computer(s). Administrative Regulation 722.01, Section 1  
States, "Department will provide access to relevant  
and up-to-date state and federal constitutional,  
Statutory, and case-law materials; and applicable  
Court rules, procedures, practice treatises, and digests."  
(Emphasis added by grievant.) Section 10, (E) States,  
"No changes in the hours of operation of the law library,  
absent exigent circumstances, are authorized.  
Documentation will be made on the length of the  
closure and the reasons for the closure." No such  
documentation has been made available to inmates nor  
does the Law Library Supervisor state in her response  
how long the Law Library will be closed.

Original: Attached to Grievance  
Pink: Inmate's Copy

NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Keith Sullivan I.D. NUMBER: 92630

INSTITUTION: MNCC UNIT #: 4

GRIEVANCE #: N/A GRIEVANCE LEVEL: informal

GRIEVANT'S STATEMENT CONTINUATION: PG. Three OF Three

My criminal appeal has specific deadlines, I have been denied appointment of counsel, The harm being done by the Law Library being closed is that I'm being denied access to ~~the~~ research materials that are ~~not~~ readily available to my opponents, therefore I am being handicapp-ed.

The remedy I'm seeking is access to the Law Library as required by Administrative Regulation 722.01, section 1.

~~Further Grievant Sayeth Naught~~

Original: Attached to Grievance  
Pink: Inmate's Copy





State of Nevada  
Department of Corrections

INMATE GRIEVANCE REPORT

4017B

ISSUE ID# 20063128172

ISSUE DATE: 09/22/2021

INMATE NAME	NDOC ID	TRANSACTION TYPE	ASSIGNED TO
SULLIVAN, KEITH WILLIAM	92630	RTRN_INF	RMEARES

LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
IF	09/28/2021	5	Denied	RMEARES	A

INMATE COMPLAINT

OFFICIAL RESPONSE

Inmate Sullivan,

The Law Library Supervisor was contacted regarding your grievance. They verified that the law library is currently not scheduling research appointments in accordance with current covid-19 protocols (not intermingling inmates from different units). Inmates have access to "relevant and up to date state and federal constitutional, statutory and case-law materials" via law library case law request DOC 1716. An inmate runner picks up and delivers law library material daily from all GP units. Covid-19 is an exigent circumstance. The law library cannot currently estimate how long the law library will be unable to schedule computer research time as the Covid-19 protocol is subject to change as new guidelines are put out. If you need legal materials you need to submit a request using a DOC 1716 form. Your grievance is denied.

CCSR   
GRIEVANCE RESPONDER



**CERTIFICATE OF SERVICE BY MAILING**

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I, Keith Sullivan, hereby certify, pursuant to NRCp 5(b), that on this  
day of August, 2022, I mailed a true and correct copy of the foregoing, "MOTION to  
Admit second Petition for writ of Habeas corpus"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

2nd Judicial Dist. Court  
75 Court St.  
Reno, NV 8950

Nevada Atty Gen office  
100 N. Carson St  
Carson City, NV 89702

Washoe Co. Dist. Atty.  
One S. Sierra St.  
Reno, NV 89501

Nevada Supreme Court  
201 S. Carson St., Suite 201  
Carson City, NV 89702

CC: FILE

DATED: this 22nd day of August, 2022.

Keith Sullivan  
Keith Sullivan # 92630  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
**IN FORMA PAUPERIS:**

From: Keith Sullivan #92630  
SPCC  
PO BOX 208  
Indian Springs, NV 89108


To: Nevada Supreme Court  
Clerk of the Court  
201 S. Carson St, Suite 201  
Carson City, NV 89702

Clerk of the Court,

Enclosed is a Motion to Admit a Second Petition For Writ of Habeas Corpus, ~~with~~ <sup>without</sup> the Second Petition itself. I have included a Motion to Disqualify Judges and/or Justices. Please send me a receipt for these documents. The Motion to Admit a Second Petition is without Exhibit 5<sup>①</sup> to comply with NR App Rule 15, the 15-page limit ~~for~~ for extraordinary writs.

This writ is admissible to the Nevada Supreme Court under Blair v. Crawford, allowing contemporaneous writs to be filed with the district and Nevada Supreme Courts.

Sincerely,

  
Keith Sullivan,  
Appellant, IA PRO SE

① Exhibit 5 is an NDOE Informal Grievance regarding being housed in a segregated unit for 3½ weeks without my legal paperwork during which I missed a court-ordered deadline.