

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW TRAVIS HOUSTON, pro se
No. 1210652 @ H.D.S.P.
PO Box 650
Indian Springs, NV 89070-0650

No(s) 80562, 84886, 84887,
85351 and 85747

ALSO IN UNITED STATES DISTRICT COURT
FROM THE DISTRICT COURT (EIGHTH)
OF CLARK COUNTY, NEVADA

FILED
MAY 19 2022

CLERK OF COURT

FILED

SEE
Case No. 2:22-cv-01285-MMD-VCF

CASE No.: C-21-357927-1

FEB 07 2023

DEPT No.: XI

C-17-323614-1

A-17-758861-C June 13, 2022 9:00 AM

Dept. No(s) 17, 28, 29

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY CHIEF DEPUTY CLERK

MATTHEW TRAVIS HOUSTON,
Plaintiff-in-Error and
Petitioner-appellant,

~~_____~~
-VS-
~~_____~~

THE STATE OF NEVADA, et al
Respondent(s)

"suppression hearing requested" and a
"de novo hearing requested"

APPELLANT'S OPENING BRIEF(S) - PART III - AND

EMERGENCY MOTION TO STRIKE FROM THE RECORD IN THE EJDC
THE "INFORMATION" FILED AUGUST 3RD, 2021, "UNDER NRAP 27(e)
emergency relief is necessary retroactively from September 30th, 2016"
"Hearing Requested"

Plaintiff-in-Error moves this court for an ORDER TO SUPPRESS
and strike from the record the illegal "INFORMATION" due
in part not only to the following facts: N.R.S. 178.145 clearly
states that there must NOT be any agreements made before a defendant is
found competent. However, misconduct committed by certain individuals not
limited to: TIERRA DANIELLE JONES, NANCY BECKER, Jake W. Merback,
KRISTINA A. RHOADES and STEVEN B. WOLFSON/John T. Jones, Jr.,
BENARD H. LITTLE, AMY CHELINI, JEREMY WOOD, STEPHANIE DIEZ, HARMONY T. LETIZIA,
turned into prosecutorial malice when they ignored the fact
that the warrant in event number 210300101590 was not in any way
authorized by any magistrate, judge or judicial officer. Their negligence and
continued misconduct included ignoring the NRS General Provisions
178.145, 178.417, 178.420 and 178.425 among other laws of
the land in the State of Nevada, the United States of America in the 9th.
and showed the upmost disrespect towards the Declaration

Man Rights, in blatant disregard of our nation's Fourth Amendment,
the 5th AMDT, the 6th AMDT, the 7th AMDT, the 8th AMDT and the 14th AMDT.(s).

RECEIVED
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MATTHEW TRAVIS HOUSTON NOW PRESENTS:

No. 1210652 @ HDSP

Po Box 650

Indian Springs, NV 89070-0650

1 "A Failure to Investigate Competency," in defense of the
2 Plaintiff-in-Error's Battered Person's Syndrome, C.P.T.S.D., i.e.
3 Complex Post-Traumatic Stress Disorder and Traumatic Brain Injuries. Very
4 many judicial standards have been developed in the following cases:

5 Medina v. California, 505 U.S. 437, 439,
6 112 S.Ct. 2572 L.Ed. 2d 353 (1992)

7 "It is well established that the Due Process
8 Clause of the Fourteenth Amendment prohibits
9 the criminal prosecution of a defendant who
10 is not competent to stand trial." That was set thirty
11 years ago, before the false arrest of the Plaintiff-in-Error on July 14, 2021.

12 United States v. Kauffman, 109 F.3d 186 (3d Cir. 1997)

13 "Failure to conduct any investigation into possible
14 insanity defence was ineffective assistance" Especially because
15 the false arrest caused Plaintiff-in-Error to miss his doctor's appointments.

16 See Taylor v. Horn, 504 F.3d 416, 438 (3d Cir. 2007)

17 "a failure to request a competency hearing may
18 violate the right to effective assistance of
19 counsel if (1) there was sufficient indicia of
20 incompetence to give objectively reasonable
21 counsel reason to doubt the defendant's
22 competency; and (2) there is a reasonable
23 probability that the defendant would have been
24 found incompetent to stand trial had the
25 issue been raised and fully considered" The Plaintiff-
26 in-Error's appointment with Dr. Tyson Ward, at Nevada Retina Specialists,
27 right next door to the Best Western was missed on July 15, 2021,
28 because of the false arrest which deprived him of his service animals.

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1 Failure to Investigate Competency, in Defense
2 of Battered Person's Syndrome, Complex Post Traumatic (C.P.T.S.D.)
3 Stress Disorder and Traumatic Brain Injury (continued)
4 In further elaboration of Standards, the record shall reflect the following: See
5 Bouchillon v. Collins, 907 F.2d 589, 592
6 (5th Cir. 1990)

7 "a court cannot accept a guilty plea from an
8 individual that is mentally incompetent; failure
9 to investigate competency is prejudicial if there
10 is a reasonable probability that the defendant
11 was incompetent to plead guilty." The false arrest also
12 deprived Plaintiff-in-Error of his neurological exam with Dr. Qwagleri.

13 McLuckie v. Abbot, 337 F.3d 1193, 1199 (10th Cir. 2003)

14 ("a failure to timely investigate a client's mental
15 state, let alone a failure to assert a mental state
16 defence at trial, falls well below an objective standard
17 of reasonableness" where a defendant exhibits

18 "severe mental problems"). Had Plaintiff-in-Error been able to attend
19 his check-up with Dr. Qwagleri on August 14, 2021, his diminished mental
20 state declined. ^{See} Cases to which Bernard Little and the court ignored:

21 Hull v. Tyler, 190 F.3d 88, 110 (3d Cir. 1999)

22 (trial counsel was ineffective when he failed to present any of
23 the numerous pieces of available evidence regarding competency
24 or to challenge the government's single witness at defendant's
25 short competency hearing). The now withdrawn counsel was given
26 access to Plaintiff-in-Error's team of almost a hundred experts,
27 including Dr. Okekee at Grand Desert Psychiatry however, his
28 dereliction of duty was a direct cause of multiple wrongful convictions.

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1 This Failure to Investigate Competency of Plaintiff-in
2 Error was furthered ~~into the~~ ~~double-jeopardy~~ cases in Las Vegas
3 Municipal Court (case(s) C1248384A and C1237802A). Not once did
4 Benard Little discuss Cases(s) with the Plaintiff-in-Error. See
5 Hummel v. Rosemeyer, 564 F.3d 290, 302-03 (3d Cir. 2010)

6 ~~(trial counsel was ineffective when he stipulated~~
7 ~~to defendant's competency when he had never met~~
8 ~~with defendant)~~. Benard Little did not ask Plaintiff-in-Error
9 or his alibi witnesses about anything whatsoever, quite similar to the case
10 of Thomas v. Lockhart, 738 F.2d 304 (8th Cir. 1984)

11 (failure to investigate alibi witnesses and
12 defendant's competency was ineffective assistance
13 and rendered defendant's plea unknowing and ~~involuntary~~
14 involuntary). As Clark County Public Defender's Cassandra Diez
15 failed to provide the court with ANY of Plaintiff-in-Error's medical records,
16 See, Evans v. Lewis, 855 F.2d 631, 636-639
17 (9th Cir. 1988)

18 (counsel's failure to pursue the possibility
19 of establishing the defendant's mental instability
20 constituted ineffective assistance). Her dereliction of duty is
21 put further on record and her neglect is reflected and summarized by

22 Dwetcher v. Whitley, 884 F.2d 1152, 1159-60
23 (9th Cir. 1998)

24 ("counsel made no tactical decision not to investigate
25 [the defendant's] possible mental impairment. He simply
26 failed to do so"). Causing a disabled person to become wrongfully
27 convicted is in no way ANY sort of "tactical decision" as this case
28 demonstrated the upmost brutality of law enforcement. The truth is
29 that an insanity defense incinuates bias, prejudice and injustice; 4

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1. in that a Failure to Investigate Competency, in Defence of Battered
2. Person's Syndrome: {or an Insanity Defense} ← which, incinuates bias, even more.
3. Bias from the general public, the legal system and big insurance claims. ~~The~~ The
insanity defense has often provided meritorious reason to overturn fraudulently erroneous
convictions; is oftentimes abused by ~~defendants~~ defendants in the criminal justice system. ~~See~~
4. The insanity defense portrays how the Appellant was abused by the Respondent(s).
5. SEE *Maddox v. Lord*, 818, F.2d 1058, 1061-62 (2d Cir. 1987)
6. (failure to develop psychiatric testimony to support
7. extreme emotional disturbance defense was deficient
8. performance; case remanded for a determination of
9. prejudice). In this case, the Clark County Public Defender's social worker,
10. Cassandra Diez neglected her duty in providing court with ^{Petitioner-}Appellant's files. See
11. *Jacobs v. Horn*, 395 F.3d 92 (3d. Cir 2005)
12. (counsel's failure to investigate defendant's competency
13. was ineffective assistance; error was compounded by
14. attorney's failure to notify psychiatrist examining
15. defendant that defendant was facing death penalty). To elaborate on a
16. remedy; *Becton v. Barnett*, 920 F.2d 1190 (4th Cir. 1990) shows what was
17. ignored; (remanding for a hearing on claim that attorney was
18. ineffective for failing to investigate defendant's competency
19. despite signs of instability). Obviously, this case should be remanded. As
20. was *Lockett v. Anderson*, 230 F.3d 695, 715-17 (5th Cir. 2000)
21. (defendant was prejudiced under *Strickland* based on
22. counsel's failure to investigate mitigating evidence relating to mental
23. condition). This case should be remanded because the court failed
24. in considering the competence of the Plaintiff-in-Error even
25. before the criminal complaint was filed on April 26, 2021.
26. If the fraudulent hearsay within that complaint would have been
27. even remotely truthful, it would have revealed that (according to Capital
28. Police Officer Montero's communications with Iowa Police) the Appellant
29. was in fact the victim, having been abused by the criminal justice system. 5

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1. As the Plaintiff-in-Error had requested help for his mental illness, a most
2. real illness, and was off his medication, is A perfect reason that
3. hearsay evidence is not to be admissible in court, even if the
4. alleged evidence meets the admission requirements set forth by
5. the BUSINESS RECORDS EXEMPTION, See, e.g. Uniform Rule
6. 63(13), is that there is no such thing as an "Iowa Police
7. Department" and a false police report defines 'manifest injustice'.

8. This case is a perfect example of how hearsay exceptions
9. jeopardize the constitutional guarantee of confrontation, especially
10. because criminal exceptions are more narrow in allowing any sort
11. of exception. Here in Nevada, the NRS 171.196 allows hearsay
12. evidence to be admissible ONLY if the defendant was charged
13. with a sexual offense committed against a child, abuse of a child,
14. or an act which constitutes domestic violence. Even more strict
15. requirements are set forth in NRS Chapter 11 - Limitations of
16. actions, Chapter 47 limiting weight and credibility, effect of error,
17. preliminary questions of admissibility, limited admissibility, matters
18. of fact and law (most especially 47.160, granting a party an
19. opportunity to be heard), limits on presumptions (making such
20. presumptions disputable) and Chapter 48 - placing even more strict
21. requirements to limit the admissibility of falsehood. NRS 178.145
22. clearly states that there may not be any sort of indictment or an agreement
23. to any sort of plea until the defendant was supposed to have been
24. determined by the court to be found competent. In no way, shape
25. or form were ANY of those requirements met. See page #7 (attached)
MOTION

26. WHEREFORE, the undersigned prays that the court grant Plaintiff-
27. in-Error / Petitioner-appellant's Motion To Strike. x. Matthew Travis Houston

28. DATED: this 29th day of April, 2022. BY: Matthew Travis Houston, pro se #1210652. And
29. so that the SUPREME COURT shall rule in favor of Mr. Houston in all of his appeals.

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RENEWED
CERTIFICATE OF SERVICE

I, Matthew Travis Houston, hereby certify that I am the

petitioner in this matter and I am representing myself in propria persona.

Again, ^{29th} December, ^{4th} (May) ²⁰²², I served copies
of the APPELLANT'S OPENING BRIEF(S) - PART III AND
(EMERGENCY MOTION TO STRIKE FROM THE RECORD)

"INFORMATION" FILED AUGUST 3RD, 2021 ^{de novo hearing requested},
and EMERGENCY MOTION FOR PRODUCTION OF EXCULPATORY EVIDENCE
in case number(s) C-21-357927-1 and placed said motion(s) in
- ALL CASES OF MATTHEW TRAVIS HOUSTON

U.S. First Class Mail, postage pre-paid:

Address: STEVEN D. GRIERSON, CEO Las Vegas, NV
200 LEWIS AVENUE, 3RD FLOOR 89155-1160

Sent to: STEVEN D. GRIERSON, SUP. CT. NV.
CLERK OF THE COURT 201 S. CARSON ST., #201
CARSON CITY, NV 89701

DISTRICT ATTORNEY, A.G. CHEN
PO Box 552212
200 Lewis Avenue
LV, NV 89155-2212

NV Attorney General
Aaron D. Ford
555 E. Washington Ave. No. 3900
LV, NV - 89101

RENEWED DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the
petitioner in the above-entitled action, and he, the defendant has read
the above CERTIFICATE OF SERVICE and that the information contained
therein is true and correct. 28 U.S.C. §1746, 18 U.S.C. §1621.

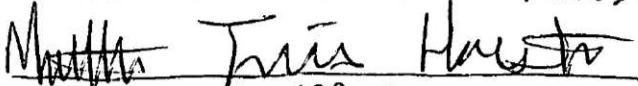
Executed at High Desert State Prison

on this 4th day of May, 2022.

cc -
LAW CLERK, D. Kempf
US. DIST. CT.
333 Las Vegas Blvd. So,
LV, NV 89101


Matthew Travis Houston DOP# 1210652

RENEWED: 12/29/2022

x 
PLAINTIFF - IN - ERROR AND
PETITIONER, In Proper Person
APPELLANT

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