

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

*Elizabeth Brown*  
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  
BY *Elizabeth Brown*  
CHIEF DEPUTY CLERK

Dept. No(s) 17, 28, 29

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  
FEB 06 2023  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

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.

MATTHEW TRAVIS HOUSTON  
No. 1210652 @ HDSP  
P.O. Box 650  
Indian Springs, NV 89070-0650

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 (5<sup>th</sup> 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 (10<sup>th</sup> 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. <sup>See</sup> Cases to which Benard 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.

MATTHEW TRAVIS HOUSTON  
No. 1210652 e H.D.S.P.  
P.O. Box 650  
Indian Springs, NV 89070 0650

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

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

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

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

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

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

MATTHEW TRAVIS HOUSTON  
No. 1210652 @ N.D.S.P.  
P.O. Box 650  
Indian Springs, NV 89070-0650

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 <sup>Petitioner-</sup>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

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

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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, <sup>29th</sup> December, <sup>4th</sup> (May) <sup>2022</sup>, 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 <sup>de novo hearing requested</sup>,  
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.

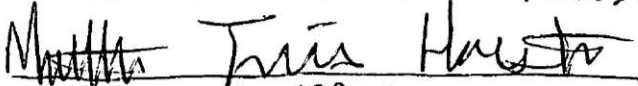
Executed at High Desert State Prison

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

7