

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
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JUSTIN ODELL LANGFORD,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: A-18-784811-W
Related Case C-14-296556-1
Docket No: 86942

**RECORD ON APPEAL
VOLUME
3**

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A-18-784811-W Justin Langford, Plaintiff(s) vs. Warden Renee Baker,
Defendant(s)

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1 must answer affirmative.

2 There may be issues, questions which this Court would gladly avoid, yet
3 the issues, questions herein this Court should, must not avoid them. This Court
4 must exercise and perform its duty, because of whatever difficulties the
5 issues herein present, Judges are not to consider the political or economic impact
6 that might ensue from upholding the Constitution of Nevada as written. (Nev.
7 Const. Art. 4§23). They are to uphold it no matter what may result, as that
8 ancient maxim of law states: "Though the heavens may fall, let "Justice" be
9 done"

10 It may be that it is obnoxious thing in its mildest and least repulsive form;
11 but illegitimate and unconstitutional practices get their first footing in that way,
12 namely, by silent approaches and ~~slight~~ slight deviations from legal modes of
13 procedure. This can ~~of~~ only be obviated by adhering to the rule that
14 constitutional provisions for the security of person... should be liberally
15 construed. A close and literal construction deprives them of half their efficacy,
16 and leads to gradual depreciation of the right, as if it consisted more in
17 sound than in substance. It is the duty of courts to be watchful for the
18 constitutional rights of the citizen, and to guard against any stealthy
19 encroachments thereon. *Coolidge v. New Hampshire*, 403 U.S. 443, 454 (1971).

20 The Petitioner respectfully request that this Court be watchful for the
21 Petitioners state and Federal Constitutional rights. It should be relatively
22 easy to determine that (1) the Statutes for the years of 2007 to 2014, do
23 not contain the constitutionally mandated enacting clause upon their face,
24 Nev. Const, Art. 4§23; that the NRS publications listed on the complaint,
25 information or indictment do not contain the Constitutionally mandated
26 enacting clause(s); (2) that the Nev. Const, Art. 4§23 mandates enacting
27 clause(s) on "every law." That, the NRS publications are laws of the State of Nevada,

28

1 therefore are required, mandated to contain the enacting clause(s). Nev. Const.
2 Art. 4 § 23; State v. Rogers, 10 Nev. at 261.

3 clearly NRS publication 220.110 being construed to not require an
4 enacting clause, would clearly controvene provisions of the Nev. Const. Caine, 131
5 P.2d at 518 (And conflicts with paramount law).

6 Their position is that a legislative Act, although unconstitutional, may in terms
7 create an office, and nothing further than its apparent existence is necessary to give
8 validity to the acts of its assumed incumbent. That position, although not stated in
9 this broad form, amounts to nothing else. It is difficult to meet it by any argument
10 beyond this statement. An unconstitutional act is not a law; it confers no rights;
11 it imposes no duties; it affords no protection; it ~~confers~~ creates no office; it is, in
12 legal contemplation, as inoperative as though it had never been passed. Norton v.
13 Shelby County, 118 US 425, 442 (1886).

14 No act of the legislature can contravene the mandate of the Nev. Const.,
15 it is the Nev. Const. from which laws of the State of Nevada derived their power.
16 State v. Rogers, supra. It is the province of an instrument of this solemn and
17 ~~perman~~ permanent character to establish those fundamental maxims, and fix those
18 unvarying rules, by which all departments of the government must at all times
19 shape their conduct. Id.

20 Our Constitution expressly provides that the enacting clause of every
21 law shall be "The people of the State of Nevada, ..." This language is
22 susceptible of but one interpretation. It is, in our judgment, an imperative
23 mandate of the people in their sovereign capacity to the legislature, requiring
24 that all laws to be binding upon them shall, upon their face, express the
25 authority by which they were enacted. Id. at 261.

26 The NRS publication, as published comes before the people/citizens of the State
27 of Nevada, and The Petitioner containing no enacting clause, therefore, the NRS

28

1 publication are not laws.

2
3 **VIII) SENATE BILL No. 2 1957 WRITTEN IN VIOLATION OF**
4 **SEPERATION OF POWERS**
5

6 The Const. of Nev. Art. 3§1, is unambiguous, and very plain in its meaning
7 and wording. Three seperate departments; separation of powers. The powers of
8 the Government of the State of Nevada shall be divided into three
9 seperate departments, -the Legislative, -the Executive. and the Judicial; and no
10 persons "charged with the exercise of powers properly belonging to one of
11 these departments shall exercise any functions, appertaining to either of the
12 others", ... Ex parte Blanchard, 9 Nev. 101 (1870); Sawyer v. Dooley, 21 Nev. 390,
13 32 Pac. 437 (1893), cited Ormsby County v Kearney, 57 Nev. 314, 341, 142 Pac. 803 (1914).
14 See also Legislature is not permitted to abdicate or to transfer to other
15 essential legislative functions with which it is vested. AGO 155 (8-28-1935).

16 **BLACK'S LAW DICTIONARY ABRIDGED NINTH EDITION, BRYON A. GARNER, EDITOR**
17 **IN CHIEF** at page 774 reads in part as follows: "A legislative body may delegate a
18 portion of its law making authority to agencies within the executive branch for
19 purposes of rulemaking and regulation. But a legislative body may not delegate
20 its authority to the "judicial branch, and the judicial branch may not encroach
21 on legislative duties"

22 It is without question that Milton B. Badt (Badt), Edgar Eather (Eather), and
23 Charles M. Merrill (Merrill), were justices of the Nev. Sup. Ct., Charged under Art.
24 6§4, of the Const. of Nev. to perform appellate judicial duties and functions.

25 That, in 1955, when Badt, Eather, and Merrill were appointed to the statute
26 revision commission (commission), as members of that commission they were charged,
27 given authority to perform duties and functions of the Legis. of Nev. The Legis.
28

1 of Nev, being charged with duties and functions of the Const. of Nev.
2 Art. 431.

3 wherefore, Badt, Eatner, and Merrill being members of the commission
4 (Exhibit), being charged as the commission to commence the preparation of
5 a complete revision and compilation of the laws of the State of Nevada to
6 be known as Nevada Revised Statutes, and ~~to~~ authorized as a
7 commission to undertake, for the first time in the State's history, a
8 comprehensive revision of the laws of the state of Nevada of general
9 application; lastly as the work progressed, Mr. McDonald submitted drafts
10 of chapter after chapter as recompiled and revised, and the members of the
11 commission (Badt, Eatner, and Merrill), individually and in conference
12 meticulously checked all revisions.... (Exhibit Foreword), were
13 performing functions, duties etc essential legislative functions with
14 which the Legis. of Nev. is vested.

15 Wherefore, the NRS as created, enacted, approved in 1957, on Jan. 25,
16 1957, are invalid laws, illegal, unconstitutional, unlawful, having been created
17 contrary to Const. of Nev. Art. 351, separate departments; separation of
18 powers. See AGO 257 (5-26-1938), 188 (8-28-1935); See also King v. Board of
19 Regents, 65 Nev. 533, 556, 200 P.2d 221, 232 (1948); Ex parte Blanchard, 9 Nev. 101 (1874);
20 Sawyer v. Dooley, 21 Nev. 310, 32 Pac. 437 (1893), cited Ormsby County v. Kearney,
21 37 Nev. 319, 341, 142 Pac. 803 (1914).

22
23 **IX) WHY THE PETITIONER IS ENTITLED TO HIS IMMEDIATE**
24 **RELEASE FROM INCARCERATION, "THE SMOKING GUN!"**

25
26 First, and foremost, let it be acknowledged that The Petitioner has set forth
27 that, Badt, Eatner, and Merrill, were Justices of the Nev. Sup. Ct. during what
28

1 will be termed "critical operative years", the years of 1955, and 1957, at which
2 time they were charged under the Const. of Nev. Art. 634 to perform "appellate
3 judicial duties and functions of the Nev. Sup. Ct."

4 Second, that, The Petitioner has set forth that Badt, Eather, and Merrill,
5 were also appointed to, members of the statute revision commission during the
6 "critical operative years", of 1955 and 1957.

7 That, Badt, Eather, and Merrill, the commission was given authority, charged
8 with power to perform essential duties, and functions of the Legis. of Nev.
9 clothed under Art. 431 of the Const. of Nev. to perform these duties and
10 functions, again, during the "critical operative years of 1955, and 1957, again "while
11 Justice's of the Nev. Sup. Ct."

12 Third, that the appointment, allowing, Etc, Badt, Eather, and Merrill, to be
13 members on said commission, and authorizing, charging, giving them authority,
14 power to perform essential duties and functions vested in the Legis. of Nev.
15 was and remains a clear violation of the Nev. Const. of Nev. Art. 331, ~~separ~~
16 separate departments, separation of powers,

17 Wherefore, the following is "irrefutable!!" what cannot be refuted;

18 1.) Badt, Eather, and Merrill, were Justice's of the Nev. Sup. Ct, in the years
19 1955, and 1957, charged with authority, power Etc. under Art. 634 of the Const.
20 of Nev., performing appellate judicial duties,

21 2.) That, Badt, Eather, and Merrill, as appellate Justice's of the Nev. Sup. Ct.,
22 during the years 1955, 1957, clothed with authority, to perform appellate judicial
23 duties and functions, were appointed, set a part, allowed to be on said
24 commission; charged, given authority, power to perform essential duties and
25 functions of the Legis. of Nev.

26 3.) That, the Legis. of Nev. pursuant to Art. 431, of the Const. of Nev., is charged,
27 given authority, power to Annotate laws; classify laws; compile laws; Amend
28

1 laws; Make laws; Draft laws; Revise laws; Modify laws; Redraft laws; codify
2 laws Etc.

3 4.) That, the three aforementioned Justice's of the Nev. Sup. Ct., were
4 clothed with the exact same authority, power, charged Etc., of the Legis. of Nev.,
5 thus, a clear undisputed, unequivocal violation of the unambiguous language of
6 Art. 331, of the Const. of Nev., when again the aforementioned three Justice's
7 performed essential duties and/or functions; of the Legis. of Nev. i. e.
8 Amending laws; Annotating laws; Classifying laws; Codifying laws; Compiling
9 laws; Drafting laws; Making laws; Modifying laws; Redrafting laws; Revising
10 laws etc.

11 That, anything done by the commission relative to, relating to the
12 essential duties and functions, of the Legis. of Nev., was, is a violation
13 of Art. 331, of the Const. of Nev.

14 Additionally, "A Constitution being the paramount law of a state,
15 designed to separate the powers of government and to define their extent and
16 limit their exercise by the several departments, as well as to secure and
17 protect private rights, no other instrument is of equal significance. 'It has
18 been very properly defined' to be a 'legislative act of the people themselves' in
19 their 'sovereign capacity', and when the people have declared by it that certain
20 powers shall be possessed and duties performed by a particular officer or
21 department, their exercise and discharge by any other officer or
22 department are forbidden by a necessary and unavoidable implication.
23 'Every positive delegation of power to one officer or department implies a
24 negation of its exercise by any other officer, department, or person. If it
25 did not, the whole constitutional fabric might be undermined and destroyed.
26 This result could be as effectually accomplished by the creation of new
27 officers and departments exercising the same power and jurisdiction as by
28

1 the direct and informal abrogation of those now existing, i.e. "King, 65
2 Nev. at 556-57, 200 P2d at 232, Justice "Badt" delivered the Opinion of the
3 Court.

4 It's readily discernable to determine that this opinion by Justice Badt
5 germinated, the sowing of the seeds of their own destruction, to formulate
6 the "statute revision commission", Badt, Eather, and Merrill. As Badt,
7 Eather, and Merrill did effectually accomplish by the "creation" of a new
8 department the "statute revision commission", exercising the "same power
9 and jurisdiction as by the direct and formal abrogation of those now existing,"
10 i.e. the Legis. of Nev. (King, 65 Nev. at 557, 200 P2d at 232).

11 Thus, Badt, Eather, and Merrill, were able to persuade unknown
12 members of the 1955, and 1957, Legis. of Nev. to agree to the creation of the "statute
13 revision commission."

14 Now, these unknown Assembly and Senate Legislature's of 1955 and 1957, looked
15 upon the constitutional provision(s) of Art. 331 of the Const. of Nev. as being
16 directory, and thus treated Art. 331, of the Const. of Nev. as though it were
17 devoid of moral obligation, and to be therefore habitually disregarded by
18 creating the "statute revision commission", allowing said Justice's of the Nev.
19 Sup. Ct. to be a part of the commission, performing, exercising the "same
20 power, jurisdiction, duties, and functions of the Legis. of Nev."

21 To allow the provision of Art. 331, of the Const. of Nev. to seem directory,
22 as did Badt, Eather, and Merrill, as well as McDonald, and the unknown
23 members of the Legis. of Nev., is the equivalent to saying that it is not "law"
24 at all.

25 This ought not to be so then, or now as its brought to light, exposed, and
26 must be conceded; that it is so we have abundant reason and good
27 authority for saying, should, therefore, a constitutional provision is to be
28

1 enforced at all, it must be treated as mandatory. And, should the
2 legislature habitually disregard it, it seems to us that there are few evils
3 which can be inflicted by a strict adherence to the law so great as that
4 which is done by the habitual disregard by any department of the
5 government, of a plain requirement of that instrument from which it derives
6 its authority, and which ought therefore to be scrupulously observed
7 and obeyed. (emphasis added) *Stevenson v. Tufky*, 19 Nev. 391, 393-44, 12 P. 835, 837
8 (1887). (Cooley Const. Lim. 183).

9 Wherefore, The Petitioner turns to and iterates from Judge Cooley as
10 follows: That, by the Const. of Nev., the people of the State of Nevada have
11 delegated by the exercise of their sovereign powers to the several departments,
12 and the people of the State of Nevada have not thereby divested themselves of
13 their sovereignty. They, the people of the State of Nevada, retain in their
14 own hands, so far as they have thought it needful to do so, a power ~~to~~ to
15 control the governments "they create", and the three departments are
16 responsible to, and subject to be ordered, directed, charged, or abolished by
17 them. *Stevenson*, 19 Nev. at 395, 12 P at 838.

18 Wherefore, the unequivocal, violation of Art. 351, of the Const. of Nev.,
19 as iterated above, which cannot be refuted, must be resisted and
20 repressed by the Officer of this Court; by enforcing, upholding Art. 351,
21 representing legitimate government.

22
23 X) SENATE BILLS 182 (1951), 188 (1953), 218 (1955), 2 (1957) VALIDATE
24 ALL CLAIMS ABOVE AND IN PETITION

25
26 Section 1 of Senate Bill No. 182 (1951) (Exhibit 2) "There is hereby
27 created a commission of the State of Nevada, to be known as the
28

1 "commission for revision and compilation of Nevada laws," hereinafter
2 referred to as the commission, "such commission shall be composed of three
3 members, and said members shall be the three justices of the supreme
4 court. . . ."

5 section 2 of senate Bill No. 182 (1951) (Exhibit 2) " . . . Such
6 compilation when completed shall be known as 'Revised Laws of Nevada,
7', " and the year of first publication shall be filled in the blank space of
8 such title for brevity such title may be cited as 'Rev. Laws.', "

9 section 1 of senate Bill No. 188 (1953) (Exhibit 3) "The title of the
10 above-entitled act, being chapter 304, statutes of Nevada 1951, is hereby
11 amended to read as follows: An act establishing a permanent commission for
12 the revision, compilation, annotation and publication of the laws of the
13 State of Nevada;"

14 section 2 of senate Bill No. 188 (1953) (Exhibit 3) "Section 1 of the
15 above-entitled act, being chapter 304, statutes of Nevada 1951, is hereby
16 amended to read as follows: Section 1. There is hereby created a
17 commission of the State of Nevada, to be known as the 'statute revision
18 commission,' hereinafter referred to as the commission. Such commission shall
19 be ~~the three justices~~ composed of three members, and said members shall be
20 the three justices of the supreme court,"

21 section 3 of senate Bill No. 188 (1953) (Exhibit 3) "Section 2 of the
22 above-entitled act, being chapter 304, statutes of Nevada 1951, is hereby
23 amended to read as follows: Section 2. As soon as practicable after the
24 effective date hereof the commission shall commence the preparation of
25 a complete revision and compilation of the laws of the State of Nevada of
26 general application, and a compilation of the constitution of the State of
27 Nevada, together Such revision when completed shall be known as
28

1 Nevada Revised Statutes,..... For brevity such title may be cited as
2 NRS....."

3 Senate Bill No. 218 (1955) (Exhibit 4) shows and establishes the fact that
4 all three justices of the Supreme Court were paid an extra salary for being
5 on the commission.

6 Senate Bill No. 2 (1957) (Exhibit) "AN ACT to revise the laws and
7 statutes of the State of Nevada of a general or public nature; to adopt and
8 enact such revised laws and statutes, to be known as the Nevada Revised
9 Statutes, as the law of the State of Nevada; to repeal all prior laws and
10 statutes of a general, public and permanent nature; providing
11 penalties; and other matters relating thereto."; Section 1. Enactment of
12 Nevada Revised Statutes. "The Nevada Revised Statutes, being the statute
13 laws set forth after section 9 of this act, are hereby adopted and enacted
14 as law of the State of Nevada."

15
16 There can be no other law in Nevada as established supra, by
17 Senate bills No's 182 (1951), 188 (1955), 2 (1957) that the Nevada Revised
18 Statutes will be the law and all other laws repealed. So if any bill
19 is being listed as "statute of Nevada" it is a null and void law/bill,
20 as of S.B. 2 (revision bill) (1957) the "statutes of Nevada" have been
21 repealed and all NRS's must have the Enacting clause upon their
22 their face as required by Nev. Const. Art. 4 § 23.

23 Anything published in the Advanced sheets of Nevada Statutes
24 (statutes of Nevada) are fraudulent documents as the "Statutes of
25 Nevada" were repealed in 1957 by the Revision Bill, so no one can
26 portray them as law, nor can they claim that the NRS are prima facie
27 evidence of the law when the Senate bill that created them says
28

1 they're the law.

2
3 VERIFICATION

4
5 I, Declare and Verify, that the foregoing document is true and
6 correct to the best of my knowledge and belief under the pains and
7 penalties of perjury. Pursuant to 28 U.S.C. 31746.

8 DATE: 4/12/21

9 

10 Petitioner, 1159546

11
12 CERTIFICATE OF SERVICE

13
14 I, Certify, that I have attached a true and correct copy of the
15 foregoing document, with special instructions to the clerk of the Court for
16 E-file and E-Service to all of my opponents pursuant to W.E.F.C.R. 5(K),
17 9 Et seq. (A-E) Etc., to the following:
18 Warden Tim Garrett at LCC
19 Aaron Ford, Atty. Gen. for Nev.
20 Steven Wolfson, Clark County D.A.

EXHIBIT 1

Foreword Statute Revision Commission, pgs XI; XIII; XIV; XV

EXHIBIT 1

LCC #001

FOREWORD

By the provisions of chapter 304, Statutes of Nevada 1951, amended by chapter 280, Statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955, the legislature of the State of Nevada created the statute revision commission comprised of the three justices of the supreme court, authorized such commission to appoint a reviser of statutes to be known as the director of the statute revision commission, and charged the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. Reference is made to chapter 220 of Nevada Revised Statutes for the further duties and authority of the statute revision commission relating to the preparation of Nevada Revised Statutes, the numbering of sections, binding, printing, classification, revision and sale thereof.

The commission employed as director Russell W. McDonald, a member of the State Bar of Nevada, who, with his staff, undertook and performed this monumental task with such methods, care, precision, completeness, accuracy and safeguards against error as to evoke the highest praise of the commission and the commendation of the bench and bar of the state.

As the work progressed, Mr. McDonald submitted drafts of chapter after chapter as recompiled and revised, and the members of the commission individually and in conference meticulously checked all revisions. In the vast majority of cases these revisions were promptly approved. Many required further conferences with the director. Some were modified and redrafted. As the several chapters were returned with approval to the director, they were in turn delivered to the superintendent of state printing for printing, to the end that upon the convening of the 1957 legislature Nevada Revised Statutes was ready to present for approval. By the provisions of chapter 2, Statutes of Nevada 1957, Nevada Revised Statutes, consisting of NRS 1.010 to 710.590, inclusive, was "adopted and enacted as law of the State of Nevada."

STATUTE REVISION COMMISSION

MILTON E. BADD
EDGAR EATHER
CHARLES M. MERRILL

Exhibit "1"

LEGISLATIVE COUNSEL'S PREFACE

History and Objectives of the Revision

Nevada Revised Statutes is the result of the enactment, by the 45th session of the legislature of the State of Nevada, of chapter 304, Statutes of Nevada 1951 (subsequently amended by chapter 230, Statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955), which created the statute revision commission and authorized the commission to undertake, for the first time in the state's history, a comprehensive revision of the laws of the State of Nevada of general application. Although revision was not commenced until 1951, the need for statutory revision had been recognized as early as 1865 when an editorial published in the *Douglas County Banner* stated:

One subject which ought to engage the early, and serious consideration of the Legislature, about to convene, and one which should be acted upon without delay, is the revision and codification of the laws of Nevada. Amendment has been added to amendment, in such manner as to leave, in many instances, the meaning of the Legislature, that last resort of the jurist, in determining the application of the law, more than doubtful * * *. The most serviceable members of the Legislature will be those gentlemen who will do something toward reducing to order our amendment-ridden, imperfectly framed and jumbled up statutes at large.

From 1861 to 1951 the legislature made no provisions for statutory revision, although during that period 8,423 acts were passed by the legislature and approved by the governor. During the period from 1873 to 1949 eight compilations of Nevada statutes were published. "Compiling" must be distinguished from "revising." Ordinarily, the "compiling" of statutes involves the following steps: Removing from the last compilation the sections that have been specifically repealed since its publication; substituting the amended text for the original text in the case of amended sections; inserting newly enacted sections; rearranging, to a limited extent, the order of sections; and bringing the index up to date.

"Revising" the statutes, on the other hand, involves these additional and distinguishing operations: (1) The collection into chapters of all the sections and parts of sections that relate to the same subject and the orderly arrangement into sections of the material assembled in each chapter. (2) The elimination of inoperative or obsolete, duplicated, impliedly repealed and unconstitutional (as declared by the Supreme Court of the State of Nevada) sections and parts of sections. (3) The elimination of unnecessary words and the improvement of the grammatical structure and physical form of sections.

The revision, instead of the recompilation, of the statutes was undertaken, therefore, first, to eliminate sections or parts of sections which, though not specifically repealed, were nevertheless ineffective and, second, to clarify, simplify, classify and generally make more accessible, understandable and usable the remaining effective sections or parts of sections.

With respect to the accomplishment of the second purpose of revision specified above, the following revisions, in addition to those mentioned elsewhere in this preface, were made:

LEGISLATIVE COUNSEL'S PREFACE

1. Long sections were divided into shorter sections. The division of long sections facilitates indexing and reduces the complications and expense incident to future amendment of the statutes.

2. Whole sections or parts of sections relating to the same subject were sometimes combined.

3. Sentences within a section, and words within a sentence, were rearranged, and tabulations were employed where indicated.

4. Such words and phrases as "on and after the effective date of this act," "heretofore," "hereinafter," "now," and "this act" were replaced by more explicit words when possible.

5. The correct names of officers, agencies or funds were substituted for incorrect designations.

The general types of revisions to be made by the reviser, as well as the broad policies governing the work of revision, were determined by the statute revision commission at frequent meetings. Precautions were taken to ensure the accomplishment of the objectives of the program without changing the meaning or substance of the statutes.

Upon completion of the revision of the text of the statutes in December 1956, the commission turned to the solution of a vital problem: Would it recommend the enactment of the revised statutes or would it request the legislature merely to adopt the revised statutes as evidence of the law? The commission concluded that the enactment of the revised statutes as law, rather than the mere adoption thereof as evidence of the law, would be the more desirable course of action. Accordingly, Nevada Revised Statutes in typewritten form was submitted to the 48th session of the legislature in the form of a bill providing for its enactment as law of the State of Nevada. This bill, Senate Bill No. 2 (hereafter referred to in this preface as "the revision bill"), was passed without amendment or dissenting vote, and on January 25, 1957, was approved by Governor Charles H. Russell.

On July 1, 1963, pursuant to the provisions of chapter 403, Statutes of Nevada 1963, the statute revision commission was abolished, and its powers, duties and functions were transferred to the legislative counsel of the State of Nevada.

SCOPE AND EFFECT OF NEVADA REVISED STATUTES

Nevada Revised Statutes, including the supplementary and replacement pages, constitutes all of the statute laws of Nevada of a general nature enacted by the legislature. All statutes of a general nature enacted before the regular legislative session of 1957 have been repealed. See section 3 of chapter 2, Statutes of Nevada 1957, immediately following this preface.

The revised statutes were the result of 7 years of labor by the statute revision commission and its editorial staff addressed to the problem of eliminating from the accumulation of 95 years of legislation those provisions no longer in force and restating and compiling the remainder in an understandable form. This involved elimination of duplicating, conflicting, obsolete and unconstitutional provisions, and those provisions that had been repealed by implication. It involved a complete reclassification, bringing together those laws and parts of laws which, because of similarity of subject matter, properly belonged together, and an arrangement of the laws within each class in a logical order. It involved the elimination of thousands of needless words and redundant expressions. It was a labor involving almost infinite detail, as well as the problems of classification and the general plan of arrangement.

XIV

(2001)

LEGISLATIVE COUNSEL'S PREFACE

Nevada Revised Statutes is the law of Nevada. The revised statutes speak for themselves; and all sections of the *Nevada Revised Statutes* are considered to speak as of the same date, except that in cases of conflict between two or more sections or of any ambiguity in a section, reference may be had to the acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity. See sections 4 and 5 of chapter 2, Statutes of Nevada 1957.

METHOD AND FORM OF PUBLICATION

As required by NRS 220.120, all volumes are "bound in loose-leaf binders of good, and so far as possible, permanent quality." The use of the loose-leaf method makes it possible to keep *Nevada Revised Statutes* up to date, without using pocket parts or supplements or completely reprinting and rebinding each volume, simply by the insertion of new pages. As required by NRS 220.160, replacement and supplementary pages to the statute text made necessary by the session of the legislature are prepared as soon as possible after each session. Complete reprintings of *Nevada Revised Statutes* were made in 1967, 1973 and 1979, and after each regular session beginning in 1985.

Replacement pages are additionally provided periodically between legislative sessions as necessary to update the annotations to NRS, including federal and state case law. Occasionally these replacement pages will contain material inadvertently omitted in the codification of NRS and the correction of manifest clerical errors, as well as sections or chapters of NRS which have been recodified pursuant to chapter 220 of NRS for clarification or to alleviate overcrowding.

The outside bottom corner of each page of NRS contains a designation which indicates the reprint or group of replacement pages with which the page was issued. A designation consisting of four numerals contained in parentheses means that the page was issued as part of a reprint of NRS immediately following the legislative session held in the year indicated by the four numerals. For example, the designation "(1999)" means that the page was issued as part of the reprint of NRS immediately following the 70th legislative session which was held in 1999. A designation consisting of four numerals contained in parentheses immediately followed by the capitalized letter "R" and a numeral means that the page was issued as part of a group of replacement pages in the year indicated by the four numerals in parentheses. The numeral following the "R" indicates the number of the group of replacement pages. The groups begin with the number one and increase sequentially by one number so that the later group will always have a higher number. For example, the designation "(2000) R1" means that the page was part of the first group of replacement pages issued in 2000. Similarly, the designation "(2000) R4" means that the page was part of the fourth group of replacement pages issued in 2000.

Each user of *Nevada Revised Statutes* is urged to make arrangements for the retention of obsolete pages for reference.

CLASSIFICATION AND ARRANGEMENT

One of the first and most fundamental tasks in the revision was the adoption of a sound system of classification. Proper classification, by which the laws or parts of laws are brought together in logical consecutive units, is vital for a number of reasons: It makes the law more accessible and understandable; only through it can all

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(5) 84

EXHIBIT

2

Senate Bill No. 182 (1957)

EXHIBIT

2

LCC #001

Senate Bill No. 182—Committee on Finance

CHAPTER 304

AN ACT establishing a permanent commission for the revision, compilation, annotation, and publishing of the laws of the State of Nevada and certain laws of the United States; prescribing certain duties of a temporary nature; prescribing certain duties of a permanent nature; making an appropriation therefor, and other matters properly connected therewith.

[Approved March 22, 1951]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby created a commission of the State of Nevada, to be known as the "commission for revision and compilation of Nevada laws," hereinafter referred to as the commission. Such commission shall be composed of three members, and said members shall be the three justices of the supreme court. The members of such commission shall have the powers and duties prescribed by this act, and shall each receive such salary for their services as shall be prescribed by this act, and subsequent enactments.

SEC. 2. As soon as practicable after the effective date hereof the commission shall commence the preparation of a complete revision and compilation of the constitution and the laws of the State of Nevada of general application, together with brief annotations and marginal notes to sections thereof. Such compilation when completed shall be known as "Revised Laws of Nevada," and the year of first publication shall be filled in the blank space of such title, for brevity such title may be cited as "Rev. Laws."

SEC. 3. In preparing such compilation the commission is hereby authorized to adopt such system of numbering as it deems practical, to cause said compilation to be published in such number of volumes, but such volumes shall not exceed 750 pages, as shall be deemed convenient, and to cause such volumes to be bound in loose-leaf binders of good, and so far as possible, permanent quality. The pages of such compilation shall conform in size and printing style to the pages of the Statutes of Nevada, except that if necessary for marginal notes, the same may be of greater width, and roman style type only, shall

EXHIBIT

3

Senate Bill No. 188 (1953)

EXHIBIT

3

LCC #001

Statutes of Nevada 1953

Senate Bill No. 188—Committee on Judiciary.

CHAPTER 280

AN ACT to amend the title of and to amend an act entitled, "An act establishing a permanent commission for the revision, compilation, annotation, and publishing of the laws of the State of Nevada and certain laws of the United States; prescribing certain duties of a temporary nature; prescribing certain duties of a permanent nature; making an appropriation therefor, and other matters properly connected therewith." approved March 22, 1951.

[Approved March 27, 1953]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. The title of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

An act establishing a permanent commission for the revision, compilation, annotation and *publication* of the laws of the State of Nevada; prescribing certain duties of a temporary and permanent nature; making an appropriation therefor, and other matters properly connected therewith.

SEC. 2. Section 1 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

Section 1. There is hereby created a commission of the State of Nevada, to be known as the "*statute revision commission*," hereinafter referred to as the commission. Such commission shall be composed of three members, and said members shall be the three justices of the supreme court. The members of such commission shall have the powers and duties prescribed by this act, and shall each receive such salary for their services as shall be prescribed by this act, and subsequent enactments.

SEC. 3. Section 2 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

Section 2. As soon as practicable after the effective date hereof the commission shall commence the preparation of a complete revision and compilation of the laws of the State of Nevada of general application, and a compilation of the constitution of the State of Nevada, together with brief annotations to sections thereof. Such revision when completed shall be known as *Nevada Revised Statutes*,....., and the year of first publication shall be filled in the blank space of such title. For brevity such title may be cited as *NRS*.....

The revision shall contain:

1. *The constitution of the United States;*

2. *The constitution of the State of Nevada;*
3. *The laws of this state of general application;*
4. *Citations to decisions of the Nevada supreme court and federal courts construing each statute and constitutional provision;*
5. *A digest of cases decided by the Nevada supreme court;*
6. *A full and accurate index of the statute laws; and*
7. *Such annotations, historical notes, supreme court and district court rules and other information as the commission deems appropriate to include.*

SEC. 4. Section 3 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

Section 3. In preparing such revision the commission is hereby authorized to adopt such system of numbering as it deems practical, to cause said revision to be published in such number of volumes as shall be deemed convenient, and to cause such volumes to be bound in loose-leaf binders of good, and so far as possible, permanent quality. The pages of such revision shall conform in size and printing style to the pages of the Statutes of Nevada, and roman style type only shall be used. *The commission shall classify and arrange the entire body of statute laws in logical order throughout the volumes, the arrangement to be such as will enable subjects of a kindred nature to be placed under one general head, with necessary cross-references. Notes of decisions of the supreme court, historical references and other material shall be arranged in such manner as the commission finds will promote the usefulness thereof.*

The commission, in preparing Nevada Revised Statutes shall not alter the sense, meaning or effect of any legislative act, but may renumber sections and parts of sections thereof, change the wording of headnotes, rearrange sections, change reference numbers or words to agree with renumbered chapters or sections, substitute the word "chapter" for "article" and the like, substitute figures for written words and vice versa, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors.

SEC. 5. Section 4 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

Section 4. Upon completion of the Nevada Revised Statutes, the commission is authorized and directed to have the same printed, litho-printed or reproduced by any other process at the state printing office, and upon completion of the final printing or other reproduction the separate volumes shall be bound as heretofore required and forwarded to the secretary of state for safekeeping and disposition as set forth hereinafter. Sufficient copies of each page shall be printed or reproduced so that there shall be bound 2,500 copies of each volume of said Nevada Revised Statutes. A master copy of said Nevada Revised Statutes,....., shall be kept in the office of the commission, and such master copy shall not be removed from said office except in the custody of a member of the commission or the director thereof.

SEC. 6. Section 5 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, is hereby amended to read as follows:

EXHIBIT

4

Senate Bill No. 218 (1955)

EXHIBIT

4

#001

LCC

Senate Bill No. 218—Committee on Finance

CHAPTER 248

AN ACT to amend an act entitled "An Act establishing a permanent commission for the revision, compilation, annotation and publication of the laws of the State of Nevada; prescribing certain duties of a temporary and permanent nature; making an appropriation therefor, and other matters properly connected therewith," approved March 22, 1951.

[Approved March 20, 1955]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. The above-entitled act, being chapter 304, Statutes of Nevada 1951, at page 470, is hereby amended by adding thereto a new section to be designated as section 4.5, which shall immediately follow section 4 and shall read as follows:

Section 4.5. Notwithstanding any of the provisions of chapter 294, Statutes of Nevada 1953, at page 460, any unexpended balance of the appropriation made to the statute revision commission by section 41 of chapter 294, Statutes of Nevada 1953, at page 463, shall not revert to the general fund on July 1, 1955, but shall be placed to the credit of the statute revision commission in the state treasury in a fund hereby created and designated as the statute revision commission printing and binding fund, which fund shall be used only for the

printing and binding of the Nevada Revised Statutes in the manner provided by this act.

SEC. 2. Section 15 of the above-entitled act, being chapter 304, Statutes of Nevada 1951, at page 472, as amended by chapter 280, Statutes of Nevada 1953, at page 390, is hereby amended to read as follows:

Section 15. *The member of the commission who is chief justice of the supreme court for the period from the effective date of this act to January 1, 1957, shall receive an annual salary of \$8,500. The member of the commission who is chief justice of the supreme court for the period from January 1, 1957, to July 1, 1957, shall receive an annual salary of \$6,500. The member of the commission who is senior justice of the supreme court for the period from the effective date of this act to January 1, 1957, shall receive an annual salary of \$6,500. The member of the commission who is senior justice of the supreme court for the period from January 1, 1957, to July 1, 1957, shall receive an annual salary of \$1,500. The member of the commission who is junior justice of the supreme court for the period from the effective date of this act to January 1, 1957, shall receive an annual salary of \$1,500. The member of the commission who is junior justice of the supreme court for the period January 1, 1957, to July 1, 1957, shall receive an annual salary of \$1,500. The salaries herein provided for shall be paid out of any appropriation heretofore or hereafter made by direct legislative appropriation from the general fund.*

SEC. 3. *This act shall become effective upon passage and approval.*

EXHIBIT 5

Senate Bill No. 2 (1957)

EXHIBIT 5

LCC: #001

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copy

ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE
ADOPTING AND ENACTING NEVADA REVISED STATUTES

1

Chapter 2, Statutes of Nevada 1957, page 2

- Section 1. Enactment of Nevada Revised Statutes.
Sec. 2. Designation and citation.
Sec. 3. Repeal of prior laws.
Sec. 4. Construction of act.
Sec. 5. Effect of enactment of NRS and repealing clause.
Sec. 6. Severability of provisions.
Sec. 7. Effective date.
Sec. 8. Omission from session laws.
Sec. 9. Content of Nevada Revised Statutes.

AN ACT to revise the laws and statutes of the State of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the State of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

[Approved January 25, 1957] *The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Section 1. Enactment of Nevada Revised Statutes.

The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.

NVCODE

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EXHIBIT "3"

Sec. 2. Designation and citation.

The Nevada Revised Statutes adopted and enacted into law by this act, and as hereafter amended and supplemented and printed and published pursuant to law, shall be known as Nevada Revised Statutes and may be cited as "NRS" followed by the number of the Title, chapter or section, as appropriate.

Sec. 3. Repeal of prior laws.

Except as provided in section 5 of this act and unless expressly continued by specific provisions of Nevada Revised Statutes, all laws and statutes of the State of Nevada of a general, public and permanent nature enacted prior to January 21, 1957, hereby are repealed.

Sec. 4. Construction of act.

1. The Nevada Revised Statutes, as enacted by this act, are intended to speak for themselves; and all sections of the Nevada Revised Statutes as so enacted shall be considered to speak as of the same date, except that in cases of conflict between two or more sections or of any ambiguity in a section, reference may be had to the acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity.

2. The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act.

3. The incorporation of initiated and referred measures is not to be deemed a legislative reenactment or amendment thereof, but only a mechanical inclusion thereof into the Nevada Revised Statutes.

4. The various analyses set out in Nevada Revised Statutes, constituting enumerations or lists of the Titles, chapters and sections of Nevada Revised Statutes, and the descriptive headings or catchlines immediately preceding or within the texts of individual sections, except the section numbers included in the headings or catchlines immediately preceding the texts of such sections, do not constitute part of the law. All derivation and other notes set out in Nevada Revised Statutes are given for the purpose of convenient reference, and do not constitute part of the law.

5. Whenever any reference is made to any portion of Nevada Revised Statutes or of any other

law of this state or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

Sec. 5. Effect of enactment of NRS and repealing clause.

1. The adoption and enactment of Nevada Revised Statutes shall not be construed to repeal or in any way affect or modify:

- (a) Any special, local or temporary laws.
- (b) Any law making an appropriation.
- (c) Any law affecting any bond issue or by which any bond issue may have been authorized.
- (d) The running of the statutes of limitations in force at the time this act becomes effective.
- (e) The continued existence and operation of any department, agency or office heretofore legally established or held.
- (f) Any bond of any public officer.
- (g) Any taxes, fees, assessments or other charges incurred or imposed.
- (h) Any statutes authorizing, ratifying, confirming, approving or accepting any compact or contract with any other state or with the United States or any agency or instrumentality thereof.

2. All laws, rights and obligations set forth in subsection 1 of this section shall continue and exist in all respects as if Nevada Revised Statutes had not been adopted and enacted.

3. The repeal of prior laws and statutes provided in section 3 of this act shall not affect any act done, or any cause of action accrued or established, nor any plea, defense, bar or matter subsisting before the time when such repeal shall take effect; but the proceedings in every case shall conform with the provisions of Nevada Revised Statutes.

4. All the provisions of laws and statutes repealed by section 3 of this act shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office, or trust, or any transaction, or event, or any limitation, or any right, or obligation, or the construction of any contract already affected by such laws, notwithstanding the repeal of such provisions.

5. No fine, forfeiture or penalty incurred under laws or statutes existing prior to the time Nevada Revised Statutes take effect shall be affected by repeal of such existing laws or statutes, but the recovery of such fines and forfeitures and the enforcement of such penalties shall be effected as if the law or statute repealed had still remained in effect.

6. When an offense is committed prior to the time Nevada Revised Statutes take effect, the offender shall be punished under the law or statute in effect when the offense was committed.

7. No law or statute which heretofore has been repealed shall be revived by the repeal provided in section 3 of this act.

8. The repeal by section 3 of this act of a law or statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal.

9. If any provision of the Nevada Revised Statutes as enacted by this act, derived from an act that amended or repealed a preexisting statute, is held unconstitutional, the provisions of section 3 of this act shall not prevent the preexisting statute from being law if that appears to have been the intent of the legislature or the people.

Sec. 6. Severability of provisions.

If any provision of the Nevada Revised Statutes or amendments thereto, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of the Nevada Revised Statutes or such amendments that can be given effect without the invalid provision or application, and to this end the provisions of Nevada Revised Statutes and such amendments are declared to be severable.

Sec. 7. Effective date.

This act, and each and all of the laws and statutes herein contained and hereby enacted as the Nevada Revised Statutes, shall take effect upon passage and approval.

Sec. 8. Omission from session laws.

The provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada as provided by NRS 218.500 and NRS 218.510; but there shall be inserted immediately following section 9 of this act the words: "(Here followed NRS 1.010 to 710.590, inclusive.)"

NV CODE

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" 3 "

Sec. 9. Content of Nevada Revised Statutes.

The following laws and statutes attached hereto, consisting of NRS sections 1.010 to 710.590, inclusive, constitute the Nevada Revised Statutes:

(Here followed NRS 1.010 to 710.590, inclusive.)

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"3"

EXHIBIT

6

Pg 16 & 17

From Motion to Dismiss
in Case

27CV-OTH-2020-0057

Filed By

Laura M. Ginn, Bar No. 8685 (lginn@agin.v.gov)
Deputy Attorney General
contact AT For Full
copy of motion

EXHIBIT

6

1 **E. Motion to Dismiss**

2 **1. Langford Claims Nevada State Law is Unconstitutional**

3 Langford alleges that Nevada State Law and the United States Code are
4 Unconstitutional. Langford's argument is that "State laws are unconstitutional, and as for
5 Federal Law ... [the] United States Code . . . has the same issue [unconstitutional] . . ."
6 Motion at 2-21:1-2. Langford's paradoxical position is that Nevada law is invalid despite
7 Langford's attempts to seek relief from a Court that is governed by Nevada Law.

8 Langford's arguments can be summarized as:

9 **Nevada Law does not exist.**

10 **This Court's Jurisdiction is established by Nevada Law.³**

11 **Therefore, this Court's Jurisdiction does not exist over Langford's**
12 **claims.**

13 Thus, Langford eliminated this Court's Jurisdiction of this case. Therefore, this Court
14 should dismiss this lawsuit pursuant to NRCP 12(b)(1)(lack of subject matter jurisdiction)
15 because Langford states that no jurisdiction exists for his claims.

16 Additionally, the Court should subject Langford to forfeiture of his statutory time
17 credits under NRS 209.451(1)(d).⁴ Under NRS 209.451(1)(d), in a civil action is found by the
18 Court to have presented a written motion which contains a claim, defense or other argument
19 which is not warranted by existing law. . . the offender forfeits all deductions of time
20 earned by the offender before the commission of that offense or act, or forfeits such part of
21 those deductions as the Director considers just. Langford presented this Court his written

22 _____
23 ³ Nevada Revised Statute (NRS) 1.010(3) establishes this Court as a Court of Justice in
24 Nevada. NRS 1.020(3) establishes this Court as a Court of Record. NRS 4.370 gives this Court
Jurisdiction over cases above \$15,000, as it limits the Justice Court to cases below that amount.

25 ⁴ NRS 209.451(1)(d) Forfeiture and restoration of credits. If an offender: In a civil action,
26 in state or federal court, is found by the court to have presented a pleading, written motion or
27 other document in writing to the court which:

28 (2) Contains a claim, defense or other argument which is not warranted by existing
law or by a reasonable argument for a change in existing law or a change in the
interpretation of existing law . . . the offender forfeits all deductions of time earned
by the offender before the commission of that offense or act, or forfeits such part of
those deductions as the Director considers just.

1 Plaintiff's grievance, which was produced in Set 1, No. 1. All documents
2 associated with this grievance have been produced; (B) Plaintiff's grievance
3 was produced in Set 1, No. 1; (C) LCC does not keep a "Law Library e-file
4 Log for each inmate," and there is no document that lists people who have
5 access to e-file, therefore, no document can be produced.

6 Langford failed to show how this response is incorrect or improper.

7 **10. Request for Production Set Four – Item Eight**

8 Complete copy of all Defendants Employee records to include staff misconduct
9 complaint.

10 The Defendants objected to this request for the following reasons. This request is
11 improper as it was served on "Defendants" and not served on any particular Defendant,
12 which is improper. This request calls for confidential and privileged information related to
13 the employment files of the Defendants. To the extent Plaintiff requests information related
14 to employment/personnel records, this information is protected by privileges and
15 confidentiality provided for under the law including but not limited to NDOC
16 Administrative Regulation 308, Nevada Revised Statute Chapter 284, Nevada
17 Administrative Code Chapter 284, and the official information privilege under federal law.
18 This discovery request has, in substance, been previously propounded. See Request No. 6,
19 set 3. Continuous discovery into the same matter constitutes oppression, and Defendants
20 further object on that ground. Notwithstanding these objections and without waiving them,
21 Defendants state: Pursuant to Administrative Regulation 308, Nevada Revised Statute
22 Chapter 284, Nevada Administrative Code Chapter 284, the documents Plaintiff is
23 requesting will not be produced. Additionally, Langford's request is not relevant because he
24 requests employee records that have nothing to do with this case.

25 **D. Sanctions are not Permissible**

26 Langford does not cite to any part of NRCP 37 that would allow sanctions merely
27 because he wants more discovery. Nor has Langford undertaken any of the safe harbor
28 provisions that must preface sanction motion practice.

29 ///
30 ///

1 Motion, containing a lengthy arguments why Nevada State Law does not exist. Because
2 Nevada State Law provides Langford with his statutory time credits, this Court should
3 forfeit Langford's statutory time credits.

4 Thus, this Court should dismiss this case and order his statutory time forfeited.

5 **2. Langford Failed to File the Joint Case Conference Report NRCP 16.1**

6 This Court should dismiss this case under NRCP 16.1(e)(2) for failing to file a Case
7 Conference Report. NRCP 16.1(e)(2) states, "[i]f the plaintiff does not file a case conference
8 report within 240 days after service of an answer by a defendant, the court, on motion or on
9 its own, may dismiss the case as to that defendant ..." ⁵ (emphasis added). Langford failed to
10 file a Joint Case Conference Report to date. NDOC filed its Answer on July 31, 2020. The
11 240-day deadline expired on Monday, March 29, 2021.

12 Thus, the Court should dismiss this case.

13 **III. CONCLUSION**

14 This Court should dismiss this lawsuit because Langford divested this Court of
15 Jurisdiction as Langford claims all Nevada State Law is Unconstitutional. This Court
16 should dismiss this lawsuit because Langford failed to file a required Joint Pretrial
17 Conference Report within the 240-day deadline. Langford cannot cure his failure as the
18 deadline expired back on March 29, 2021.

19 This Court should deny Langford's Motion as procedurally deficient. NDOC produced
20 discovery in good faith. NRCP 11 is an extraordinary remedy and is not warranted when
21 NDOC complied with discovery requests. Langford's request and motion should be denied.

22 **IV. EXHIBITS**

- 23 1. Grievance 2006-30-83244
24 2. Defendant's Response to Plaintiff's Request for Production of Documents (Set
25 Two)

26 _____
27 ⁵ NRCP 16.1(e)(2) Failure or Refusal to Participate in Pretrial Discovery; Sanctions states,
28 "If the plaintiff does not file a case conference report within 240 days after service of an answer by
a defendant, the court, on motion or on its own, may dismiss the case as to that defendant,
without prejudice."

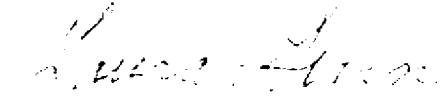
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3. Defendant's Response to Plaintiff's Request for Production of Documents (Set Three)

DATED this 5th day of April, 2021.

AARON D. FORD
Attorney General

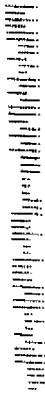
By:



LAURA M. GINN, Bar No. 8085
Deputy Attorney General
100 N. Carson Street
Carson City, NV 89701-4717
(775) 684-1120
lginn@ag.nv.gov

Attorneys for Defendants

stein langford-1189546
c, 1200 Prison Rd.
velock, Nev. 89419



Lovelock Correctional Center



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DISTRICT COURT
CLARK COUNTY, NEVADA

JUSTIN LANGFORD, PLAINTIFF(S) VS. WARDEN RENEE BAKER, DEFENDANT(S)	CASE NO: A-18-784811-W DEPARTMENT 23
---	---

NOTICE OF RESCHEDULING OF HEARING

Please be advised that the date and time of a hearing set before the **Honorable Jasmin Lilly-Spells** has been changed. The **Petition for Writ of Habeas Corpus** has been **rescheduled** to the **19th day of May, 2021, at 11:00 a.m.** The **Bluejeans Link is:** <https://bluejeans.com/734863144>.

By: Deborah A. Boyer
Deborah Boyer
Judicial Executive Assistant
to Judge Jasmin Lilly-Spells
Department 23

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CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I served a copy of the foregoing document.

Justin Langford
#1159546
1200 Prison Road
Lovelock, NV 89419

Steven B Wolfson
Juvenile Division - District Attorney's Office
601 N Pecos Road
Las Vegas, NV 89101

Deborah A. Boyer

Deborah Boyer,
Judicial Executive Assistant

Steven D. Grierson

Justin Odell Langford-1159546
LCC, 1200 Prison Rd
Lovelock, Nev. 89419

DISTRICT COURT
CLARK COUNTY, NEVADA

Justin Odell Langford,

Petitioner,

vs-

CASE No. A-18-784811-W

DEPT No. 23

Warden Tim Garrett,

Respondent.

NOTICE OF APPEAL

I can ONLY speculate as to this matter as the Court Clerk refuses to send me minutes for hearings or orders that are filed.

I assume my writ of Habeas was denied on 5/19/21 by Judge Jasmine Lilly-spells and this is my notice challenging said order of denial.

Judge Jasmine Lilly-spells entered an order on 4/30/21 in which I never recieved, Also failed to make sure I was in court for said hearing as mandate by WRS 34.440.

Respectfully Submitted
Justin Odell Langford
Justin Odell Langford
5/27/21

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CLERK OF THE COURT

Justin D. Langford - 1157546
1000 P.O. Box 11
Covington, LA 70014

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COVINGTON, LA 70014

Clerk of the Court
200 Lewis Ave
Lafayette, LA 70503

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 JUSTIN ODELL LANGFORD,

10 Plaintiff(s),

11 vs.

12 WARDEN RENEE BAKER,

13 Defendant(s),

Case No: A-18-784811-W

Dept No: XXIII

14
15
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Justin Odell Langford

18 2. Judge: Jasmin Lily-Spells

19 3. Appellant(s): Justin Odell Langford

20 Counsel:

21 Justin Odell Langford #1159546
22 1200 Prison Rd.
23 Lovelock, NV 89419

24 4. Respondent (s): Warden Renee Baker

25 Counsel:

26 Steven B. Wolfson, District Attorney
27 200 Lewis Ave.
28 Las Vegas, NV 89155-2212

- 1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A
3 Respondent(s)'s Attorney Licensed in Nevada: Yes
4 Permission Granted: N/A
5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
6 7. Appellant Represented by Appointed Counsel On Appeal: N/A
7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, February 11, 2021
8 **Expires 1 year from date filed
9 Appellant Filed Application to Proceed in Forma Pauperis: N/A
10 Date Application(s) filed: N/A
11 9. Date Commenced in District Court: November 19, 2018
12 10. Brief Description of the Nature of the Action: Civil Writ
13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
14 11. Previous Appeal: Yes
15 Supreme Court Docket Number(s): 78144
16 12. Child Custody or Visitation: N/A
17 13. Possibility of Settlement: Unknown

18 Dated This 8 day of June 2021.

19 Steven D. Grierson, Clerk of the Court

20 */s/ Amanda Hampton*

21 Amanda Hampton, Deputy Clerk
22 200 Lewis Ave
23 PO Box 551601
24 Las Vegas, Nevada 89155-1601
25 (702) 671-0512

26 cc: Justin Odell Langford
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

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Steven D. Grierson
CLERK OF THE COURT



Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 23

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Request in Status Check and Copy of Court Docket Sheet in the above-entitled matter is set for hearing as follows:

Date: July 19, 2021

Time: 11:00 AM

Location: RJC Courtroom 12D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

Heaven & Son
CLERK OF THE COURT

1 Justin Odell Langford-1159546

2 LCC, 1200 Prison Rd

3 Lovelock, Nev. 89419

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7 Justin Odell Langford,

CASE No.: A-18-784811-W

8 Petitioner,

DATE :

9 vs.

TIME :

10 Warden Tim Garrett,

DEPT No.: 23

11 Respondent.

(HEARING REQUESTED/REQUIRED)

12

13 Motion For Request in Status Check And Copy of Court Docket
14 Sheet

15

16 Petitioner, Justin Odell Langford, Respectfully request of this Court a
17 Status Check and a copy of the Docket Sheet, as Petitioner has
18 recieved no orders from the Judge in this Action since its order on
19 Feb. 15, 2021 directing a response within 45 days and setting 2
20 hearings for May 4TH, 2021. Since Feb. 15, 2021 petitioner has filed
21 numerous items and a response has been file, but nothing by the
22 court has been done.

23

Submitted this 15TH day of June 2021

24

Justin Odell Langford
Petitioner

25

26

27

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28

JUN - 7 2021

Justin Odell Langford - 11594546
LCC, 1200 Prison Rd.
Lovelock, Nev. 89419

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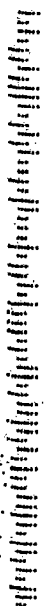
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1 **FFCO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ALEXANDER CHEN
6 Chief Deputy District Attorney
7 Nevada Bar #010539
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Respondent

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 **JUSTIN LANGFORD,**
10 **#2748452,**
11
12 Petitioner,
13
14 -vs-
15 THE STATE OF NEVADA,
16
17 Respondent.

CASE NO: **A-18-784811-W**
C-14-296556-1
DEPT NO: **XXIII**

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: **MAY 19, 2021**
TIME OF HEARING: **11:00 AM**

19 THIS CAUSE having presented before the Honorable JASMIN LILLY-SPELLS,
20 District Judge, on the 19th day of May, 2021; Petitioner not present, proceeding IN PROPER
21 PERSON; Respondent represented by STEVEN B. WOLFSON, Clark County District
22 Attorney, by and through JAY RAMAN, Chief Deputy District Attorney; and having
23 considered the matter, including briefs, transcripts, and documents on file herein, the Court
24 makes the following Findings of Fact and Conclusions of Law:

25 //
26 //
27 //
28 //

1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On March 14, 2014, JUSTIN ODELL LANGFORD (hereinafter “Petitioner”) was
4 charged by way of Information with the following: COUNTS 1, 2, 6, 7, 8, 10, 11, and 12 –
5 Lewdness With A Child Under The Age Of 14 (Category A Felony - NRS 201.230);
6 COUNTS 3, 4, and 5 – Sexual Assault With A Minor Under Fourteen Years Of Age
7 (Category A Felony - NRS 200.364, 200.366); and COUNT 9 – Child Abuse, Neglect, or
8 Endangerment (Category B Felony - NRS 200.508(1)).

9 On March 7, 2016, a jury trial convened and lasted nine days. On March 17, 2016, the
10 jury returned a guilty verdict as to COUNT 2, and not guilty as to all other Counts.

11 On May 10, 2016, Petitioner was sentenced to Life with a possibility of parole after a
12 term of 10 years have been served in the Nevada Department of Corrections (“NDOC”).
13 Petitioner received eight hundred forty-one (841) days credit for time served. The Judgment
14 of Conviction was filed on May 17, 2016.

15 On June 1, 2016, Petitioner filed a Notice of Appeal from his conviction. On June 27,
16 2017, the Nevada Supreme Court affirmed the Judgment of Conviction. Remittitur issued
17 July 28, 2017.

18 On July 19, 2017, Petitioner filed a Motion to Modify And/Or Correct Sentence
19 (“Motion to Modify”), Motion for Sentence Reduction (“Motion for Reduction”), Motion for
20 Production of Documents, Papers, Pleadings, and Tangible Property of Petitioner, a Motion
21 for Transcripts at the State’s Expense and Memorandum of Point and Authorities in Support
22 of Request for Transcripts at State’s Expense, a Motion to Obtain a Copy of a Sealed Record,
23 and a Motion to Withdraw Counsel. The State filed its Response to Petitioner’s Motion to
24 Modify and/or Correct Sentence and Motion for Sentence Reduction on August 2, 2017.

25 On August 10, 2017, the Court denied Petitioner’s Motion for Sentence Reduction,
26 granted Petitioner’s Motion for Production of Documents, Papers, Pleadings, and Tangible
27 Property of Petitioner, denied Petitioner’s Motion for Transcripts at State’s Expense, granted
28 Petitioner’s Motion to withdraw Counsel, granted Petitioner’s Motion to Obtain Copy of a

1 Sealed Record, and denied Petitioner's Motion to Modify/Correct Illegal Sentence.

2 On October 10, 2017, Petitioner filed a Motion to Claim and Exercise Rights
3 Guaranteed by the Constitution for the United States of America and Require the Presiding
4 Judge to Rule upon this Motion, and All Public Officers of this Court to Uphold Said Rights
5 and an affidavit in support of that Motion. He also filed a Motion to Reconsider Transcripts
6 at State's Expense, a Motion to Compel Court Orders, and a Motion to Reconsider Motions
7 for Correction of Illegal Sentence and Sentence Reduction. The State responded to the
8 Motion to Reconsider Motions for Correction of Illegal Sentence and Sentence Reduction on
9 October 30, 2017. On October 31, 2017, the Court denied all of Petitioner's Motions, and the
10 order was filed on November 7, 2017.

11 On November 27, 2017, Petitioner filed a Motion for Ancillary Services and a Motion
12 for Transcripts and Other Court Documents and State's Expense. The State filed its
13 Opposition to Petitioner's Motion for Ancillary Services on December 13, 2017. The Court
14 denied Petitioner's Motions on December 19, 2017, and the order was filed on December 29,
15 2017.

16 On December 29, 2017, Petitioner filed a "Notice of Understanding of Intent and
17 Claim of Right as well as a Notice of Denial of Consent." He additionally filed a Petition for
18 Writ of Habeas Corpus (Post-Conviction), Memorandum in Support of Petition, Motion for
19 Appointment of Counsel, and Request for Evidentiary Hearing. The State responded to
20 Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Memo in Support, Motion
21 to Appoint Counsel, and Motion for Evidentiary Hearing on February 20, 2018.

22 On March 7, 2018, Petitioner filed a Motion for Summary Judgment on Petition for
23 Writ of Habeas Corpus (Post-Conviction) Due to Respondent's Silence, and on March 15,
24 2018, he filed a Motion to Strike State's Response [to Petitioner's Petition]. In both of those,
25 he alleged that since the State did not respond by February 19, 2018 (45 days from the order
26 to respond), its Response should be disregarded. Pursuant to Eighth Judicial District Court
27 Rule 1.14(b), "If any day on which an act required to be done by any one of these rules falls
28 on a Saturday, Sunday or legal holiday, the act may be performed on the next succeeding

1 judicial day.” February 19, 2018 was a legal holiday; thus, the State properly filed its
2 Response on the next succeeding judicial day, February 20, 2018.

3 On March 15, 2018, Petitioner filed a Motion for Stay of Sentence. The State
4 responded on April 2, 2018. That motion was denied on April 5, 2018. On March 30, 2018,
5 Petitioner filed a Motion to Modify and/or Correct Illegal Sentence and “Judicial Notice of
6 Lack of Jurisdiction” claiming that the District Court lacked subject matter jurisdiction to
7 sentence him.

8 On April 24, 2018, Petitioner filed a Pro Per Petition for Writ of Habeas Corpus. On
9 March 7, 2018, Petitioner filed a Motion for Summary Judgment on Writ of Habeas Corpus
10 (Post-Conviction). On May 1, 2018 the court issued an Order denying Petitioner’s Motion.

11 On June 1, 2018, the court entered and order denying Petitioner’s Motion to Modify
12 and/or Correct Illegal Sentence and “Judicial Notice of Lack of Jurisdiction. The court also
13 entered its Findings of Fact, Conclusions of Law, and Order. On July 2, 2018 this case was
14 reassigned to Department 15.

15 On August 28, 2018 Petitioner filed a Motion to Recuse and Application for Bail. The
16 State filed its Response on October 8, 2018. On August 31, 2018, Petitioner filed a Post-
17 Conviction Petition Requesting a Genetic Marker Analysis. The State filed its Opposition on
18 September 17, 2018. The court denied Petitioner’s Motions on October 9, 2018 and filed its
19 Order on November 6, 2018.

20 On November 19, 2018, Petitioner filed a Petition for Writ of Habeas Corpus. The
21 State filed its Response on January 17, 2019. The court denied Petitioner’s Petition and filed
22 its Findings of Fact, Conclusions of Law and Order on March 11, 2019.

23 On March 28, 2019, Petitioner filed a Motion to Compel Production of Documents
24 Pursuant to 5 U.S.C.S. 552-Freedom of Information Act. The court denied Petitioner’s
25 Motion on April 25, 2019. The court filed its Order on May 17, 2019.

26 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted
27 the Motion on September 19, 2019, directing the Clerk’s Office to file an Amended
28 Judgment of Conviction with no change to the language, but amending the nature of the

1 closure of the case to reflect that the case was closed after a jury-trial conviction. The
2 Amended Judgment of Conviction was filed on September 23, 2019.

3 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
4 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The
5 court granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight
6 hundred fifty-nine (859) days credit for time served. The Second Amended Judgment of
7 Conviction was filed on October 23, 2019.

8 On November 19, 2019, Petitioner filed a Petition for Writ of Habeas Corpus and
9 Motion to Compel Production of Transcripts. Petitioner filed an Addendum to Motion to
10 Compel Production of Transcripts on December 2, 2019.

11 On December 5, 2019, Petitioner filed a Motion to Hold Monique McNeill, Esq.,
12 Attorney of Record in Contempt for Failing to Forward Copy of Case File. On December 6,
13 2019, Petitioner filed a Petition for Writ of Habeas Corpus Ad Testificandum/Alternatively a
14 Telephone Hearing. On December 10, 2019, the court granted the Motion to Compel
15 Production of Transcripts and denied Petitioner's Petition as moot. The Findings of Fact,
16 Conclusions of Law, and Order was filed on December 23, 2019.

17 On January 7, 2020, the court held a hearing on Petitioner's Motion to Hold Monique
18 McNeill, Esq., Attorney of Record in Contempt for Failing to Forward Copy of Case File.
19 The court continued the matter to allow Ms. McNeill to file an Opposition and appear at the
20 hearing. The court issued a Notice of Hearing for the Motion and continued the hearing to
21 January 30, 2020.

22 On January 30, 2020, Ms. McNeill did not appear at the hearing, and the court
23 ordered an Order to Show Cause as to why Ms. McNeill should not be held in contempt for
24 failure to provide Petitioner with the file and for her failure to appear for the hearing.

25 On February 18, 2020, Ms. McNeill appeared at the Show Cause hearing and told the
26 court she had provided Petitioner with his file on four (4) different occasions. The court held
27 that cause had been shown, and Ms. McNeill would not be held in contempt of court. The
28

1 court also denied Petitioner's Motion to Hold Monique McNeill, Esq., Attorney of Record in
2 Contempt for Failing to Forward Copy of Case File.

3 On February 25, 2020, Petitioner filed a Petition for Writ of Habeas Corpus Ad
4 Testificandum. The same day, Petitioner also filed a Motion to Correct Illegal Sentence. The
5 State filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10,
6 2020. On March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the
7 district court denied Petitioner's Motion. The Order was filed on March 26, 2020.

8 On March 30, 2020, Petitioner filed a Notice of Appeal, appealing the denial of
9 Petitioner's Motion to Correct Illegal Sentence. On April 24, 2020, the Nevada Supreme
10 Court dismissed Petitioner's appeal because Petitioner had no right to appeal the district
11 court's decision. Remittitur issued on May 21, 2020.

12 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
13 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
14 2020.

15 On February 9, 2021, Petitioner filed the instant Petition for Writ of Habeas Corpus
16 (Post-Conviction) (hereinafter "Petition"), Motion for Appointment of Attorney, and Request
17 for Evidentiary Hearing. Petitioner filed an Addendum to Petition for Writ of Habeas Corpus
18 Pursuant to the all Writs Act on February 25, 2021. On March 8, 2021, Petitioner filed an
19 additional Motion for Appointment of Attorney. The same day, Petitioner also filed an Ex
20 Parte Motion to Shorten Time Pursuant to EDCR 5.513 and a Motion to Continue. On March
21 17, 2021, Petitioner filed a Request for Judicial Notice and Judicial Action to be Taken,
22 Motion for an Order to Produce Prisoner, and Motion for Discovery/Motion for Order to
23 Show Cause. The State filed its Response on April 5, 2021. Following a hearing on May 19,
24 2021, this Court finds and concludes as follows:

25 **STATEMENT OF THE FACTS**

26 On June 21, 2014, the minor victim H.H. (DOB: 06/22/2001) disclosed that she had
27 been sexually abused by her stepfather, Petitioner. The abuse began when she was eight (8)
28 years old. While at Petitioner's residence in Searchlight, Nevada, Petitioner would call H.H.

1 into his bedroom and have H.H. take off her clothes. Petitioner would make H.H. lie on the
2 bed and he would rub baby oil on H.H.'s legs. Petitioner then placed his private parts in
3 between her legs and rubbed himself back and forth until he ejaculated. H.H. stated that
4 Petitioner placed a white hand towel on the bed and had the victim lie on the towel during
5 the molestation incidents. He would then use the towel to clean up the baby oil. The abuse
6 continued until the victim reported the abuse in January 2014.

7 H.H. testified of several instances of sexual abuse committed by Petitioner. H.H.
8 described instances including Petitioner sucking on her breasts, putting his penis in her anus,
9 putting his penis into her mouth more than once, touching her genital area with his hands and
10 his penis, and fondling her buttocks and/or anal area with his penis.

11 On January 21, 2014, the Las Vegas Metropolitan Police Department served a search
12 warrant on Petitioner's residence in Searchlight. Officers recovered a white hand towel that
13 matched the description given by H.H. in the exact location H.H. described. The police also
14 recovered a bottle of baby oil found in the same drawer as the hand towel and bedding.
15 These items were tested for DNA. Several stains on the white towel came back consistent
16 with a mixture of two individuals. The partial major DNA profile contributor was consistent
17 with Petitioner. The partial minor DNA profile was consistent with victim H.H. The
18 statistical significance of both partial profiles was at least one in 700 billion.

19 AUTHORITY

20 **I. THIS PETITION IS TIME-BARRED AND SUCCESSIVE.**

21 Petitioner's instant Petition for Writ of Habeas Corpus was not filed within one year
22 of the filing of the Judgment of Conviction. Thus, the Petition is time-barred. Pursuant to
23 NRS 34.726(1):

24 Unless there is good cause shown for delay, a petition that
25 challenges the validity of a judgment or sentence must be filed
26 within 1 year of the entry of the judgment of conviction or, if an
27 appeal has been taken from the judgment, within 1 year after the
Supreme Court issues its remittitur. For the purposes of this
subsection, good cause for delay exists if the petitioner demonstrates
to the satisfaction of the court:

28 (a) That the delay is not the fault of the petitioner; and

1
2 (b) That dismissal of the petition as untimely will
unduly prejudice the petitioner.

3
4 The Nevada Supreme Court has held that NRS 34.726 should be construed by its
5 plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). As per
6 the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run
7 from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is
8 filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

9 The one-year time limit for preparing petitions for post-conviction relief under NRS
10 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
11 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
12 evidence presented by the defendant that he purchased postage through the prison and mailed
13 the petition within the one-year time limit.

14 Additionally, NRS 34.810(2) reads:

15 A second or successive petition *must be dismissed* if the judge or
16 justice determines that it fails to allege new or different grounds for
17 relief and that the prior determination was on the merits or, if new
and different grounds are alleged, the judge or justice finds that the
failure of the petitioner to assert those grounds in a prior petition
constituted an abuse of the writ.

18 (emphasis added).

19 Second or successive petitions are petitions that either fail to allege new or different
20 grounds for relief and the grounds have already been decided on the merits or that allege new
21 or different grounds but a judge or justice finds that the petitioner’s failure to assert those
22 grounds in a prior petition would constitute an abuse of the writ. Second or successive
23 petitions will only be decided on the merits if the petitioner can show good cause and
24 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994);
25 see also Hart v. State, 116 Nev. 558, 563–64, 1 P.3d 969, 972 (2000) (holding that “where a
26 defendant previously has sought relief from the judgment, the defendant’s failure to identify
27 all grounds for relief in the first instance should weigh against consideration of the
28 successive motion.”)

1 The Nevada Supreme Court has stated: “Without such limitations on the availability
2 of post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse
3 post-conviction remedies. In addition, meritless, successive and untimely petitions clog the
4 court system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d
5 at 950. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly
6 require a careful review of the record, successive petitions may be dismissed based solely on
7 the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In
8 other words, if the claim or allegation was previously available with reasonable diligence, it
9 is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467,
10 497–98 (1991). Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112
11 P.3d at 1074.

12 In the instant case, Remittitur from Petitioner’s direct appeal issued on July 28, 2017.
13 Petitioner filed the instant Petition on February 9, 2021 – four years since the Remittitur.
14 Thus, the instant Petition is time-barred. This Petition is also successive as Petitioner
15 previously filed multiple post-conviction Petitions with the district court. Absent a showing
16 of good cause to excuse this delay, the instant Petition is dismissed.

17 **II. APPLICATION OF THE PROCEDURAL BARS IS MANDATORY**

18 The Nevada Supreme Court has held that the district court has a *duty* to consider
19 whether a defendant’s post-conviction petition claims are procedurally barred. State v.
20 Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The
21 Riker Court found that “[a]pplication of the statutory procedural default rules to post-
22 conviction habeas petitions is mandatory,” noting:

23 Habeas corpus petitions that are filed many years after conviction
24 are an unreasonable burden on the criminal justice system. The
25 necessity for a workable system dictates that there must exist a time
when a criminal conviction is final.

26 Id. Additionally, the Court noted that procedural bars “cannot be ignored [by the district
27 court] when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
28

1 Court has granted no discretion to the district courts regarding whether to apply the statutory
2 procedural bars; the rules *must* be applied.

3 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).
4 There the Court ruled that the defendant’s petition was “untimely, successive, and an abuse
5 of the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324,
6 307 P.3d at 326. Accordingly, the Court reversed the district court and ordered the
7 defendant’s petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–
8 23. The procedural bars are so fundamental to the post-conviction process that they must be
9 applied by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at
10 1074. Therefore, application of the procedural bars is mandatory.

11 **III. PETITIONER CANNOT ESTABLISH GOOD CAUSE**

12 A showing of good cause and prejudice may overcome procedural bars. However,
13 Petitioner cannot demonstrate good cause to explain why his Petition was untimely.

14 “To establish good cause, appellants must show that an impediment external to the
15 defense prevented their compliance with the applicable procedural rule. A qualifying
16 impediment might be shown where the factual or legal basis for a claim *was not reasonably*
17 *available at the time of default.*” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
18 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
19 cause[.]” Id. at 621, 81 P.3d at 526. Rather, to find good cause, there must be a “substantial
20 reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503,
21 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Any
22 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

23 A petitioner raising good cause to excuse procedural bars must do so within a
24 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
25 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see
26 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506-07 (stating that a claim reasonably
27 available to the petitioner during the statutory time period did not constitute good cause to
28 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good

1 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S.
2 446, 453 120 S. Ct. 1587, 1592 (2000).

3 Further, to establish prejudice, the defendant must show “not merely that the errors
4 of [the proceedings] created possibility of prejudice, but that they worked to his actual and
5 substantial disadvantage, in affecting the state proceedings with error of constitutional
6 dimensions.” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting
7 United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)).

8 In the instant case, Petitioner cannot demonstrate good cause to overcome the
9 mandatory procedural bars because he cannot demonstrate that this claim was not reasonably
10 available at the time of default. Clem, 119 Nev. at 621, 81 P.3d at 525. Petitioner fails to
11 address good cause and does not explain why he is now raising this issue four years later.
12 Petitioner fails to state any claims in his Petition and simply makes incoherent and vague
13 arguments about treason and the Constitution. Because Petitioner cannot establish good
14 cause to explain why his Petition was untimely, the Petition is denied as time barred.

15 **IV. PETITIONER IS NOT ENTITLED TO POST-CONVICTION COUNSEL**

16 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in
17 post-conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991).
18 In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada Supreme
19 Court similarly observed that “[t]he Nevada Constitution ... does not guarantee a right to
20 counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s right to
21 counsel provision as being coextensive with the Sixth Amendment to the United States
22 Constitution.” McKague specifically held that with the exception of NRS 34.820(1)(a)
23 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
24 “[a]ny constitutional or statutory right to counsel at all” in post-conviction proceedings. Id. at
25 164, 912 P.2d at 258.

26 The Nevada Legislature has, however, given courts the discretion to appoint post-
27 conviction counsel so long as “the court is satisfied that the allegation of indigency is true
28 and the petition is not dismissed summarily.” NRS 34.750. NRS 34.750(1) reads:

1 [a] petition may allege that the Defendant is unable to pay the costs
2 of the proceedings or employ counsel. If the court is satisfied that the
3 allegation of indigency is true and the petition *is not dismissed*
4 *summarily*, the court may appoint counsel at the time the court
5 orders the filing of an answer and a return. In making its
6 determination, the court may consider whether:

7 (a) The issues are difficult;

8 (b) The Defendant is unable to comprehend the proceedings;

9 or

10 (c) Counsel is necessary to proceed with discovery.

11 (emphasis added). Accordingly, under NRS 34.750, it is clear that the Court has discretion in
12 determining whether to appoint counsel.

13 More recently, the Nevada Supreme Court examined whether a district court
14 appropriately denied a defendant's request for appointment of counsel based upon the factors
15 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In
16 Renteria-Novoa, the petitioner had been serving a prison term of eighty-five (85) years to
17 life. Id. at 75, 391 P.3d at 760. After his judgment of conviction was affirmed on direct
18 appeal, the defendant filed a pro se postconviction petition for writ of habeas corpus and
19 requested counsel be appointed. Id. The district court ultimately denied the petitioner's
20 petition and his appointment of counsel request. Id. In reviewing the district court's decision,
21 the Nevada Supreme Court examined the statutory factors listed under NRS 34.750 and
22 concluded that the district court's decision should be reversed and remanded. Id. The Court
23 explained that the petitioner was indigent, his petition could not be summarily dismissed, and
24 he had in fact satisfied the statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor,
25 the Court concluded that because petitioner had represented he had issues with understanding
26 the English language which was corroborated by his use of an interpreter at his trial, that was
27 enough to indicate that the petitioner could not comprehend the proceedings. Id. Moreover,
28 the petitioner had demonstrated that the consequences he faced—a minimum eighty-five (85)
year sentence—were severe and his petition may have been the only vehicle for which he
could raise his claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of

1 counsel claims may have required additional discovery and investigation beyond the record.
2 Id.

3 Pursuant to NRS 34.750, Petitioner has not demonstrated that counsel should be
4 appointed. Petitioner's request is suitable only for summary denial as he has failed to provide
5 any specific facts to support his bare and naked request. Hargrove, at 502, 686 P.2d at 225.
6 Similarly, unlike in Renteria-Novoa, Petitioner's Petition is summarily dismissed for several
7 reasons, including, but not limited to, his Petition is time-barred, successive, and his claim is
8 waived as meritless.

9 Petitioner fails to address what he specifically needs counsel for in his untimely post-
10 conviction Petition. As discussed supra, Section IV., aside from being barred, Petitioner's
11 allegations are bare and naked allegation without support from the record and have already
12 been denied multiple times by the district courts. Therefore, this Court declines to appoint
13 counsel because nothing raised in his post-conviction Petition warrants appointing an
14 attorney and there is no constitutional right to counsel in post-conviction proceedings.
15 Coleman, 501 U.S. 722, 111 S. Ct. 2546.

16 VI. PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING

17 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It
18 reads:

- 19 1. The judge or justice, upon review of the return, answer and all
20 supporting documents which are filed, shall determine whether an
21 evidentiary hearing is required. A petitioner must not be discharged
22 or committed to the custody of a person other than the respondent
23 *unless an evidentiary hearing is held.*
- 24 2. If the judge or justice determines that the petitioner is not entitled
25 to relief and an evidentiary hearing is not required, he shall dismiss
26 the petition without a hearing.
- 27 3. If the judge or justice determines that an evidentiary hearing is
28 required, he shall grant the writ and shall set a date for the hearing.

26 The Nevada Supreme Court has held that if a petition can be resolved without
27 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
28 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A

1 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
2 allegations, which, if true, would entitle him to relief unless the factual allegations are
3 repelled by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100
4 Nev. at 503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not
5 entitled to an evidentiary hearing on factual allegations belied or repelled by the record”). “A
6 claim is ‘belied’ when it is contradicted or proven to be false by the record as it existed at the
7 time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to
8 hold an evidentiary hearing simply to make a complete record. See State v. Eighth Judicial
9 Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The district court considered
10 itself the ‘equivalent of . . . the trial judge’ and consequently wanted ‘to make as complete a
11 record as possible.’ This is an incorrect basis for an evidentiary hearing.”).

12 Further, the United States Supreme Court has held that an evidentiary hearing is not
13 required simply because counsel’s actions are challenged as being unreasonable strategic
14 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not
15 indulge post hoc rationalization for counsel’s decision making that contradicts the available
16 evidence of counsel’s actions, neither may they insist counsel confirm every aspect of the
17 strategic basis for his or her actions. Id. There is a “strong presumption” that counsel’s
18 attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer
19 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls
20 for an inquiry in the *objective* reasonableness of counsel’s performance, not counsel’s
21 *subjective* state of mind. 466 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994) (emphasis added).

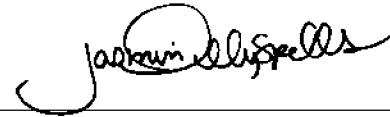
22 Here, there is no reason to expand the record because Petitioner fails to present
23 specific factual allegations that would entitle him to relief. Marshall, 110 Nev. at 1331, 885
24 P.2d at 605. There is nothing else for an evidentiary hearing to determine. Petitioner’s claims
25 are barred and bare and naked. There is no need to expand the record because Petitioner’s
26 claims are meritless and can be disposed of on the existing record. Therefore, an evidentiary
27 hearing is not warranted.

28 ///

ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief shall be, and is DENIED.

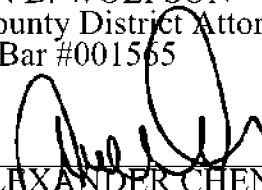
Dated this 22nd day of July, 2021



STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

COA 3D8 E20E 1DC2
Jasmin Lilly-Spells
District Court Judge

BY



ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539

hjc/SVU

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Justin Langford, Plaintiff(s) | CASE NO: A-18-784811-W
7 vs. | DEPT. NO. Department 23
8 Warden Renee Baker,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

16 **Service Date:** 7/22/2021

17 maria case-bateson maria.case-bateson@clarkcountyda.com

18 If indicated below, a copy of the above mentioned filings were also served by mail
19 via United States Postal Service, postage prepaid, to the parties listed below at their last
20 known addresses on 7/23/2021

21 Justin Langford #1159546
22 1200 Prison Road
23 Lovelock, NV, 89419

24 Steven Wolfson Juvenile Division - District Attorney's Office
25 601 N Pecos Road
26 Las Vegas, NV, 89101
27
28



1 NEFF

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 JUSTIN LANGFORD,

6 Petitioner,

Case No: A-18-784811-W

Dept No: XXIII

7 vs.

8 WARDEN RENEE BAKER; ET.AL.,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

10
11 **PLEASE TAKE NOTICE** that on July 22, 2021, the court entered a decision or order in this matter, a true
12 and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
15 to you. This notice was mailed on July 26, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 26 day of July 2021, I served a copy of this Notice of Entry on the following:

21 By e-mail:
22 Clark County District Attorney's Office
23 Attorney General's Office – Appellate Division-

24 The United States mail addressed as follows:
25 Justin Langford # 1159546
26 1200 Prison Rd.
27 Lovelock, NV 89419

28 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

1 **FFCO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ALEXANDER CHEN
6 Chief Deputy District Attorney
7 Nevada Bar #010539
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Respondent

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 **JUSTIN LANGFORD,**
10 **#2748452,**
11
12 Petitioner,
13
14 -vs-
15 THE STATE OF NEVADA,
16
17 Respondent.

CASE NO: **A-18-784811-W**
C-14-296556-1
DEPT NO: **XXIII**

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: **MAY 19, 2021**
TIME OF HEARING: **11:00 AM**

19 THIS CAUSE having presented before the Honorable JASMIN LILLY-SPELLS,
20 District Judge, on the 19th day of May, 2021; Petitioner not present, proceeding IN PROPER
21 PERSON; Respondent represented by STEVEN B. WOLFSON, Clark County District
22 Attorney, by and through JAY RAMAN, Chief Deputy District Attorney; and having
23 considered the matter, including briefs, transcripts, and documents on file herein, the Court
24 makes the following Findings of Fact and Conclusions of Law:

25 //
26 //
27 //
28 //

1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On March 14, 2014, JUSTIN ODELL LANGFORD (hereinafter “Petitioner”) was
4 charged by way of Information with the following: COUNTS 1, 2, 6, 7, 8, 10, 11, and 12 –
5 Lewdness With A Child Under The Age Of 14 (Category A Felony - NRS 201.230);
6 COUNTS 3, 4, and 5 – Sexual Assault With A Minor Under Fourteen Years Of Age
7 (Category A Felony - NRS 200.364, 200.366); and COUNT 9 – Child Abuse, Neglect, or
8 Endangerment (Category B Felony - NRS 200.508(1)).

9 On March 7, 2016, a jury trial convened and lasted nine days. On March 17, 2016, the
10 jury returned a guilty verdict as to COUNT 2, and not guilty as to all other Counts.

11 On May 10, 2016, Petitioner was sentenced to Life with a possibility of parole after a
12 term of 10 years have been served in the Nevada Department of Corrections (“NDOC”).
13 Petitioner received eight hundred forty-one (841) days credit for time served. The Judgment
14 of Conviction was filed on May 17, 2016.

15 On June 1, 2016, Petitioner filed a Notice of Appeal from his conviction. On June 27,
16 2017, the Nevada Supreme Court affirmed the Judgment of Conviction. Remittitur issued
17 July 28, 2017.

18 On July 19, 2017, Petitioner filed a Motion to Modify And/Or Correct Sentence
19 (“Motion to Modify”), Motion for Sentence Reduction (“Motion for Reduction”), Motion for
20 Production of Documents, Papers, Pleadings, and Tangible Property of Petitioner, a Motion
21 for Transcripts at the State’s Expense and Memorandum of Point and Authorities in Support
22 of Request for Transcripts at State’s Expense, a Motion to Obtain a Copy of a Sealed Record,
23 and a Motion to Withdraw Counsel. The State filed its Response to Petitioner’s Motion to
24 Modify and/or Correct Sentence and Motion for Sentence Reduction on August 2, 2017.

25 On August 10, 2017, the Court denied Petitioner’s Motion for Sentence Reduction,
26 granted Petitioner’s Motion for Production of Documents, Papers, Pleadings, and Tangible
27 Property of Petitioner, denied Petitioner’s Motion for Transcripts at State’s Expense, granted
28 Petitioner’s Motion to withdraw Counsel, granted Petitioner’s Motion to Obtain Copy of a

1 Sealed Record, and denied Petitioner's Motion to Modify/Correct Illegal Sentence.

2 On October 10, 2017, Petitioner filed a Motion to Claim and Exercise Rights
3 Guaranteed by the Constitution for the United States of America and Require the Presiding
4 Judge to Rule upon this Motion, and All Public Officers of this Court to Uphold Said Rights
5 and an affidavit in support of that Motion. He also filed a Motion to Reconsider Transcripts
6 at State's Expense, a Motion to Compel Court Orders, and a Motion to Reconsider Motions
7 for Correction of Illegal Sentence and Sentence Reduction. The State responded to the
8 Motion to Reconsider Motions for Correction of Illegal Sentence and Sentence Reduction on
9 October 30, 2017. On October 31, 2017, the Court denied all of Petitioner's Motions, and the
10 order was filed on November 7, 2017.

11 On November 27, 2017, Petitioner filed a Motion for Ancillary Services and a Motion
12 for Transcripts and Other Court Documents and State's Expense. The State filed its
13 Opposition to Petitioner's Motion for Ancillary Services on December 13, 2017. The Court
14 denied Petitioner's Motions on December 19, 2017, and the order was filed on December 29,
15 2017.

16 On December 29, 2017, Petitioner filed a "Notice of Understanding of Intent and
17 Claim of Right as well as a Notice of Denial of Consent." He additionally filed a Petition for
18 Writ of Habeas Corpus (Post-Conviction), Memorandum in Support of Petition, Motion for
19 Appointment of Counsel, and Request for Evidentiary Hearing. The State responded to
20 Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Memo in Support, Motion
21 to Appoint Counsel, and Motion for Evidentiary Hearing on February 20, 2018.

22 On March 7, 2018, Petitioner filed a Motion for Summary Judgment on Petition for
23 Writ of Habeas Corpus (Post-Conviction) Due to Respondent's Silence, and on March 15,
24 2018, he filed a Motion to Strike State's Response [to Petitioner's Petition]. In both of those,
25 he alleged that since the State did not respond by February 19, 2018 (45 days from the order
26 to respond), its Response should be disregarded. Pursuant to Eighth Judicial District Court
27 Rule 1.14(b), "If any day on which an act required to be done by any one of these rules falls
28 on a Saturday, Sunday or legal holiday, the act may be performed on the next succeeding

1 judicial day.” February 19, 2018 was a legal holiday; thus, the State properly filed its
2 Response on the next succeeding judicial day, February 20, 2018.

3 On March 15, 2018, Petitioner filed a Motion for Stay of Sentence. The State
4 responded on April 2, 2018. That motion was denied on April 5, 2018. On March 30, 2018,
5 Petitioner filed a Motion to Modify and/or Correct Illegal Sentence and “Judicial Notice of
6 Lack of Jurisdiction” claiming that the District Court lacked subject matter jurisdiction to
7 sentence him.

8 On April 24, 2018, Petitioner filed a Pro Per Petition for Writ of Habeas Corpus. On
9 March 7, 2018, Petitioner filed a Motion for Summary Judgment on Writ of Habeas Corpus
10 (Post-Conviction). On May 1, 2018 the court issued an Order denying Petitioner’s Motion.

11 On June 1, 2018, the court entered and order denying Petitioner’s Motion to Modify
12 and/or Correct Illegal Sentence and “Judicial Notice of Lack of Jurisdiction. The court also
13 entered its Findings of Fact, Conclusions of Law, and Order. On July 2, 2018 this case was
14 reassigned to Department 15.

15 On August 28, 2018 Petitioner filed a Motion to Recuse and Application for Bail. The
16 State filed its Response on October 8, 2018. On August 31, 2018, Petitioner filed a Post-
17 Conviction Petition Requesting a Genetic Marker Analysis. The State filed its Opposition on
18 September 17, 2018. The court denied Petitioner’s Motions on October 9, 2018 and filed its
19 Order on November 6, 2018.

20 On November 19, 2018, Petitioner filed a Petition for Writ of Habeas Corpus. The
21 State filed its Response on January 17, 2019. The court denied Petitioner’s Petition and filed
22 its Findings of Fact, Conclusions of Law and Order on March 11, 2019.

23 On March 28, 2019, Petitioner filed a Motion to Compel Production of Documents
24 Pursuant to 5 U.S.C.S. 552-Freedom of Information Act. The court denied Petitioner’s
25 Motion on April 25, 2019. The court filed its Order on May 17, 2019.

26 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted
27 the Motion on September 19, 2019, directing the Clerk’s Office to file an Amended
28 Judgment of Conviction with no change to the language, but amending the nature of the

1 closure of the case to reflect that the case was closed after a jury-trial conviction. The
2 Amended Judgment of Conviction was filed on September 23, 2019.

3 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
4 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The
5 court granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight
6 hundred fifty-nine (859) days credit for time served. The Second Amended Judgment of
7 Conviction was filed on October 23, 2019.

8 On November 19, 2019, Petitioner filed a Petition for Writ of Habeas Corpus and
9 Motion to Compel Production of Transcripts. Petitioner filed an Addendum to Motion to
10 Compel Production of Transcripts on December 2, 2019.

11 On December 5, 2019, Petitioner filed a Motion to Hold Monique McNeill, Esq.,
12 Attorney of Record in Contempt for Failing to Forward Copy of Case File. On December 6,
13 2019, Petitioner filed a Petition for Writ of Habeas Corpus Ad Testificandum/Alternatively a
14 Telephone Hearing. On December 10, 2019, the court granted the Motion to Compel
15 Production of Transcripts and denied Petitioner's Petition as moot. The Findings of Fact,
16 Conclusions of Law, and Order was filed on December 23, 2019.

17 On January 7, 2020, the court held a hearing on Petitioner's Motion to Hold Monique
18 McNeill, Esq., Attorney of Record in Contempt for Failing to Forward Copy of Case File.
19 The court continued the matter to allow Ms. McNeill to file an Opposition and appear at the
20 hearing. The court issued a Notice of Hearing for the Motion and continued the hearing to
21 January 30, 2020.

22 On January 30, 2020, Ms. McNeill did not appear at the hearing, and the court
23 ordered an Order to Show Cause as to why Ms. McNeill should not be held in contempt for
24 failure to provide Petitioner with the file and for her failure to appear for the hearing.

25 On February 18, 2020, Ms. McNeill appeared at the Show Cause hearing and told the
26 court she had provided Petitioner with his file on four (4) different occasions. The court held
27 that cause had been shown, and Ms. McNeill would not be held in contempt of court. The
28

1 court also denied Petitioner's Motion to Hold Monique McNeill, Esq., Attorney of Record in
2 Contempt for Failing to Forward Copy of Case File.

3 On February 25, 2020, Petitioner filed a Petition for Writ of Habeas Corpus Ad
4 Testificandum. The same day, Petitioner also filed a Motion to Correct Illegal Sentence. The
5 State filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10,
6 2020. On March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the
7 district court denied Petitioner's Motion. The Order was filed on March 26, 2020.

8 On March 30, 2020, Petitioner filed a Notice of Appeal, appealing the denial of
9 Petitioner's Motion to Correct Illegal Sentence. On April 24, 2020, the Nevada Supreme
10 Court dismissed Petitioner's appeal because Petitioner had no right to appeal the district
11 court's decision. Remittitur issued on May 21, 2020.

12 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
13 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
14 2020.

15 On February 9, 2021, Petitioner filed the instant Petition for Writ of Habeas Corpus
16 (Post-Conviction) (hereinafter "Petition"), Motion for Appointment of Attorney, and Request
17 for Evidentiary Hearing. Petitioner filed an Addendum to Petition for Writ of Habeas Corpus
18 Pursuant to the all Writs Act on February 25, 2021. On March 8, 2021, Petitioner filed an
19 additional Motion for Appointment of Attorney. The same day, Petitioner also filed an Ex
20 Parte Motion to Shorten Time Pursuant to EDCR 5.513 and a Motion to Continue. On March
21 17, 2021, Petitioner filed a Request for Judicial Notice and Judicial Action to be Taken,
22 Motion for an Order to Produce Prisoner, and Motion for Discovery/Motion for Order to
23 Show Cause. The State filed its Response on April 5, 2021. Following a hearing on May 19,
24 2021, this Court finds and concludes as follows:

25 **STATEMENT OF THE FACTS**

26 On June 21, 2014, the minor victim H.H. (DOB: 06/22/2001) disclosed that she had
27 been sexually abused by her stepfather, Petitioner. The abuse began when she was eight (8)
28 years old. While at Petitioner's residence in Searchlight, Nevada, Petitioner would call H.H.

1 into his bedroom and have H.H. take off her clothes. Petitioner would make H.H. lie on the
2 bed and he would rub baby oil on H.H.'s legs. Petitioner then placed his private parts in
3 between her legs and rubbed himself back and forth until he ejaculated. H.H. stated that
4 Petitioner placed a white hand towel on the bed and had the victim lie on the towel during
5 the molestation incidents. He would then use the towel to clean up the baby oil. The abuse
6 continued until the victim reported the abuse in January 2014.

7 H.H. testified of several instances of sexual abuse committed by Petitioner. H.H.
8 described instances including Petitioner sucking on her breasts, putting his penis in her anus,
9 putting his penis into her mouth more than once, touching her genital area with his hands and
10 his penis, and fondling her buttocks and/or anal area with his penis.

11 On January 21, 2014, the Las Vegas Metropolitan Police Department served a search
12 warrant on Petitioner's residence in Searchlight. Officers recovered a white hand towel that
13 matched the description given by H.H. in the exact location H.H. described. The police also
14 recovered a bottle of baby oil found in the same drawer as the hand towel and bedding.
15 These items were tested for DNA. Several stains on the white towel came back consistent
16 with a mixture of two individuals. The partial major DNA profile contributor was consistent
17 with Petitioner. The partial minor DNA profile was consistent with victim H.H. The
18 statistical significance of both partial profiles was at least one in 700 billion.

19 AUTHORITY

20 **I. THIS PETITION IS TIME-BARRED AND SUCCESSIVE.**

21 Petitioner's instant Petition for Writ of Habeas Corpus was not filed within one year
22 of the filing of the Judgment of Conviction. Thus, the Petition is time-barred. Pursuant to
23 NRS 34.726(1):

24 Unless there is good cause shown for delay, a petition that
25 challenges the validity of a judgment or sentence must be filed
26 within 1 year of the entry of the judgment of conviction or, if an
27 appeal has been taken from the judgment, within 1 year after the
Supreme Court issues its remittitur. For the purposes of this
subsection, good cause for delay exists if the petitioner demonstrates
to the satisfaction of the court:

28 (a) That the delay is not the fault of the petitioner; and

1
2 (b) That dismissal of the petition as untimely will
unduly prejudice the petitioner.

3
4 The Nevada Supreme Court has held that NRS 34.726 should be construed by its
5 plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). As per
6 the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run
7 from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is
8 filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

9 The one-year time limit for preparing petitions for post-conviction relief under NRS
10 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
11 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
12 evidence presented by the defendant that he purchased postage through the prison and mailed
13 the petition within the one-year time limit.

14 Additionally, NRS 34.810(2) reads:

15 A second or successive petition *must be dismissed* if the judge or
16 justice determines that it fails to allege new or different grounds for
17 relief and that the prior determination was on the merits or, if new
and different grounds are alleged, the judge or justice finds that the
failure of the petitioner to assert those grounds in a prior petition
constituted an abuse of the writ.

18 (emphasis added).

19 Second or successive petitions are petitions that either fail to allege new or different
20 grounds for relief and the grounds have already been decided on the merits or that allege new
21 or different grounds but a judge or justice finds that the petitioner’s failure to assert those
22 grounds in a prior petition would constitute an abuse of the writ. Second or successive
23 petitions will only be decided on the merits if the petitioner can show good cause and
24 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994);
25 see also Hart v. State, 116 Nev. 558, 563–64, 1 P.3d 969, 972 (2000) (holding that “where a
26 defendant previously has sought relief from the judgment, the defendant’s failure to identify
27 all grounds for relief in the first instance should weigh against consideration of the
28 successive motion.”)

1 The Nevada Supreme Court has stated: “Without such limitations on the availability
2 of post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse
3 post-conviction remedies. In addition, meritless, successive and untimely petitions clog the
4 court system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d
5 at 950. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly
6 require a careful review of the record, successive petitions may be dismissed based solely on
7 the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In
8 other words, if the claim or allegation was previously available with reasonable diligence, it
9 is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467,
10 497–98 (1991). Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112
11 P.3d at 1074.

12 In the instant case, Remittitur from Petitioner’s direct appeal issued on July 28, 2017.
13 Petitioner filed the instant Petition on February 9, 2021 – four years since the Remittitur.
14 Thus, the instant Petition is time-barred. This Petition is also successive as Petitioner
15 previously filed multiple post-conviction Petitions with the district court. Absent a showing
16 of good cause to excuse this delay, the instant Petition is dismissed.

17 **II. APPLICATION OF THE PROCEDURAL BARS IS MANDATORY**

18 The Nevada Supreme Court has held that the district court has a *duty* to consider
19 whether a defendant’s post-conviction petition claims are procedurally barred. State v.
20 Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The
21 Riker Court found that “[a]pplication of the statutory procedural default rules to post-
22 conviction habeas petitions is mandatory,” noting:

23 Habeas corpus petitions that are filed many years after conviction
24 are an unreasonable burden on the criminal justice system. The
25 necessity for a workable system dictates that there must exist a time
when a criminal conviction is final.

26 Id. Additionally, the Court noted that procedural bars “cannot be ignored [by the district
27 court] when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
28

1 Court has granted no discretion to the district courts regarding whether to apply the statutory
2 procedural bars; the rules *must* be applied.

3 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).
4 There the Court ruled that the defendant’s petition was “untimely, successive, and an abuse
5 of the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324,
6 307 P.3d at 326. Accordingly, the Court reversed the district court and ordered the
7 defendant’s petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–
8 23. The procedural bars are so fundamental to the post-conviction process that they must be
9 applied by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at
10 1074. Therefore, application of the procedural bars is mandatory.

11 **III. PETITIONER CANNOT ESTABLISH GOOD CAUSE**

12 A showing of good cause and prejudice may overcome procedural bars. However,
13 Petitioner cannot demonstrate good cause to explain why his Petition was untimely.

14 “To establish good cause, appellants must show that an impediment external to the
15 defense prevented their compliance with the applicable procedural rule. A qualifying
16 impediment might be shown where the factual or legal basis for a claim *was not reasonably*
17 *available at the time of default.*” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
18 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
19 cause[.]” Id. at 621, 81 P.3d at 526. Rather, to find good cause, there must be a “substantial
20 reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503,
21 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Any
22 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

23 A petitioner raising good cause to excuse procedural bars must do so within a
24 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
25 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see
26 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506-07 (stating that a claim reasonably
27 available to the petitioner during the statutory time period did not constitute good cause to
28 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good

1 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S.
2 446, 453 120 S. Ct. 1587, 1592 (2000).

3 Further, to establish prejudice, the defendant must show “not merely that the errors
4 of [the proceedings] created possibility of prejudice, but that they worked to his actual and
5 substantial disadvantage, in affecting the state proceedings with error of constitutional
6 dimensions.” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting
7 United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)).

8 In the instant case, Petitioner cannot demonstrate good cause to overcome the
9 mandatory procedural bars because he cannot demonstrate that this claim was not reasonably
10 available at the time of default. Clem, 119 Nev. at 621, 81 P.3d at 525. Petitioner fails to
11 address good cause and does not explain why he is now raising this issue four years later.
12 Petitioner fails to state any claims in his Petition and simply makes incoherent and vague
13 arguments about treason and the Constitution. Because Petitioner cannot establish good
14 cause to explain why his Petition was untimely, the Petition is denied as time barred.

15 **IV. PETITIONER IS NOT ENTITLED TO POST-CONVICTION COUNSEL**

16 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in
17 post-conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991).
18 In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada Supreme
19 Court similarly observed that “[t]he Nevada Constitution ... does not guarantee a right to
20 counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s right to
21 counsel provision as being coextensive with the Sixth Amendment to the United States
22 Constitution.” McKague specifically held that with the exception of NRS 34.820(1)(a)
23 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
24 “[a]ny constitutional or statutory right to counsel at all” in post-conviction proceedings. Id. at
25 164, 912 P.2d at 258.

26 The Nevada Legislature has, however, given courts the discretion to appoint post-
27 conviction counsel so long as “the court is satisfied that the allegation of indigency is true
28 and the petition is not dismissed summarily.” NRS 34.750. NRS 34.750(1) reads:

1 [a] petition may allege that the Defendant is unable to pay the costs
2 of the proceedings or employ counsel. If the court is satisfied that the
3 allegation of indigency is true and the petition *is not dismissed*
4 *summarily*, the court may appoint counsel at the time the court
5 orders the filing of an answer and a return. In making its
6 determination, the court may consider whether:

7 (a) The issues are difficult;

8 (b) The Defendant is unable to comprehend the proceedings;

9 or

10 (c) Counsel is necessary to proceed with discovery.

11 (emphasis added). Accordingly, under NRS 34.750, it is clear that the Court has discretion in
12 determining whether to appoint counsel.

13 More recently, the Nevada Supreme Court examined whether a district court
14 appropriately denied a defendant's request for appointment of counsel based upon the factors
15 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In
16 Renteria-Novoa, the petitioner had been serving a prison term of eighty-five (85) years to
17 life. Id. at 75, 391 P.3d at 760. After his judgment of conviction was affirmed on direct
18 appeal, the defendant filed a pro se postconviction petition for writ of habeas corpus and
19 requested counsel be appointed. Id. The district court ultimately denied the petitioner's
20 petition and his appointment of counsel request. Id. In reviewing the district court's decision,
21 the Nevada Supreme Court examined the statutory factors listed under NRS 34.750 and
22 concluded that the district court's decision should be reversed and remanded. Id. The Court
23 explained that the petitioner was indigent, his petition could not be summarily dismissed, and
24 he had in fact satisfied the statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor,
25 the Court concluded that because petitioner had represented he had issues with understanding
26 the English language which was corroborated by his use of an interpreter at his trial, that was
27 enough to indicate that the petitioner could not comprehend the proceedings. Id. Moreover,
28 the petitioner had demonstrated that the consequences he faced—a minimum eighty-five (85)
year sentence—were severe and his petition may have been the only vehicle for which he
could raise his claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of

1 counsel claims may have required additional discovery and investigation beyond the record.
2 Id.

3 Pursuant to NRS 34.750, Petitioner has not demonstrated that counsel should be
4 appointed. Petitioner's request is suitable only for summary denial as he has failed to provide
5 any specific facts to support his bare and naked request. Hargrove, at 502, 686 P.2d at 225.
6 Similarly, unlike in Renteria-Novoa, Petitioner's Petition is summarily dismissed for several
7 reasons, including, but not limited to, his Petition is time-barred, successive, and his claim is
8 waived as meritless.

9 Petitioner fails to address what he specifically needs counsel for in his untimely post-
10 conviction Petition. As discussed supra, Section IV., aside from being barred, Petitioner's
11 allegations are bare and naked allegation without support from the record and have already
12 been denied multiple times by the district courts. Therefore, this Court declines to appoint
13 counsel because nothing raised in his post-conviction Petition warrants appointing an
14 attorney and there is no constitutional right to counsel in post-conviction proceedings.
15 Coleman, 501 U.S. 722, 111 S. Ct. 2546.

16 **VI. PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING**

17 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It
18 reads:

- 19 1. The judge or justice, upon review of the return, answer and all
20 supporting documents which are filed, shall determine whether an
21 evidentiary hearing is required. A petitioner must not be discharged
22 or committed to the custody of a person other than the respondent
23 *unless an evidentiary hearing is held.*
- 24 2. If the judge or justice determines that the petitioner is not entitled
25 to relief and an evidentiary hearing is not required, he shall dismiss
26 the petition without a hearing.
- 27 3. If the judge or justice determines that an evidentiary hearing is
28 required, he shall grant the writ and shall set a date for the hearing.

29 The Nevada Supreme Court has held that if a petition can be resolved without
30 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
31 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A

1 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
2 allegations, which, if true, would entitle him to relief unless the factual allegations are
3 repelled by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100
4 Nev. at 503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not
5 entitled to an evidentiary hearing on factual allegations belied or repelled by the record”). “A
6 claim is ‘belied’ when it is contradicted or proven to be false by the record as it existed at the
7 time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to
8 hold an evidentiary hearing simply to make a complete record. See State v. Eighth Judicial
9 Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The district court considered
10 itself the ‘equivalent of . . . the trial judge’ and consequently wanted ‘to make as complete a
11 record as possible.’ This is an incorrect basis for an evidentiary hearing.”).

12 Further, the United States Supreme Court has held that an evidentiary hearing is not
13 required simply because counsel’s actions are challenged as being unreasonable strategic
14 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not
15 indulge post hoc rationalization for counsel’s decision making that contradicts the available
16 evidence of counsel’s actions, neither may they insist counsel confirm every aspect of the
17 strategic basis for his or her actions. Id. There is a “strong presumption” that counsel’s
18 attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer
19 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls
20 for an inquiry in the *objective* reasonableness of counsel’s performance, not counsel’s
21 *subjective* state of mind. 466 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994) (emphasis added).

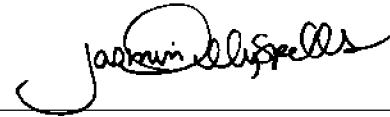
22 Here, there is no reason to expand the record because Petitioner fails to present
23 specific factual allegations that would entitle him to relief. Marshall, 110 Nev. at 1331, 885
24 P.2d at 605. There is nothing else for an evidentiary hearing to determine. Petitioner’s claims
25 are barred and bare and naked. There is no need to expand the record because Petitioner’s
26 claims are meritless and can be disposed of on the existing record. Therefore, an evidentiary
27 hearing is not warranted.

28 ///

ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief shall be, and is DENIED.

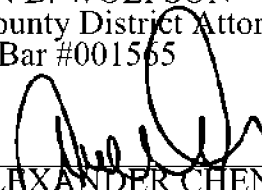
Dated this 22nd day of July, 2021



STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

COA 3D8 E20E 1DC2
Jasmin Lilly-Spells
District Court Judge

BY



ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539

hjc/SVU

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5		
6	Justin Langford, Plaintiff(s)	CASE NO: A-18-784811-W
7	vs.	DEPT. NO. Department 23
8	Warden Renee Baker,	
9	Defendant(s)	

10

11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

16 **Service Date:** 7/22/2021

17

18 maria case-bateson	maria.case-bateson@clarkcountyda.com
-----------------------	--------------------------------------

19 If indicated below, a copy of the above mentioned filings were also served by mail
20 via United States Postal Service, postage prepaid, to the parties listed below at their last
21 known addresses on 7/23/2021

22 Justin Langford	#1159546
	1200 Prison Road
	Lovelock, NV, 89419

23 Steven Wolfson	Juvenile Division - District Attorney's Office
	601 N Pecos Road
	Las Vegas, NV, 89101

24
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

Supreme Court No. 83032
District Court Case No. A784811; ~~0290550~~

FILED

DEC 20 2021

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 17th day of November, 2021.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Review denied."

Judgment, as quoted above, entered this 17th day of December, 2021.

A-18-784811-W
CCJA
NV Supreme Court Clerks Certificate/Judgn
4977124



IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this December 17, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Andrew Lococo
Deputy Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 83032-COA

FILED

NOV 17 2021

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

ORDER OF AFFIRMANCE

Justin Odell Langford appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 9, 2021, and a supplemental petition filed on February 25, 2021. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Langford claims the district court erred by denying his petition as procedurally barred. Langford filed his petition more than three years after issuance of the remittitur on direct appeal on July 24, 2017. See *Langford v. State*, No. 70536, 2017 WL 2815087 (Nev. June 27, 2017) (Order of Affirmance). Thus, Langford's petition was untimely filed. See NRS 34.726(1). Moreover, Langford's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.¹

¹See *Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance). Langford also filed postconviction petitions for a writ of habeas corpus in the district court on November 19, 2018, and November 19, 2019, but he did not appeal from the district court orders denying those petitions.

See NRS 34.810(1)(b)(2); NRS 34.810(2). Langford's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

First, Langford claimed he had good cause because the trial court lacked jurisdiction, the Nevada Revised Statutes were not properly enacted, the jurors were not properly sworn, and the State committed fraud upon the court and falsely prosecuted him. These claims have already been considered and rejected. See *Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance); *Langford v. State*, No. 80972-COA, 2020 WL 6130668 (Nev. Ct. App. Oct. 16, 2020) (Order of Affirmance). The doctrine of the law of the case prevents further consideration of these issues. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797 798-99 (1975). "The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings." *Id.* at 316, 535 P.2d at 799. Therefore, we conclude the district court did not err by rejecting these good-cause claims.

Second, Langford appeared to claim he had good cause because counsel did not send him his full case file. Counsel's failure to send a petitioner his case file does not constitute good cause because it does not "prevent [the petitioner] from filing a timely petition." *Hood v. State*, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995). Langford failed to demonstrate that counsel's alleged failure to send Langford his case file prevented him from filing a timely petition, and thus, Langford did not demonstrate good cause. Therefore, we conclude the district court did not err by rejecting this good-cause claim.

Langford also claims on appeal that the district court erred by conducting a hearing concerning the petition without his being present. A criminal defendant does not have an unlimited right to be present at every proceeding. *See Gallego v. State*, 117 Nev. 348, 367-68, 23 P.3d 227, 240 (2001), *abrogated on other grounds by Nunnery v. State*, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011). A "defendant must show that he was prejudiced by the absence." *Kirksey v. State*, 112 Nev. 980, 1000, 923 P.2d 1102, 1115 (1996). The record indicates the hearing at issue was not an evidentiary hearing, no testimony or argument was presented, and the district court merely announced it denied Langford's petition. Because the arguments Langford contends he would have raised at the hearing were in his petition, he does not demonstrate he was prejudiced by his absence from the relevant hearing. Accordingly, we conclude the district court did not err in this regard.² Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²Langford also claims the district court erred by allowing the State to file a late response and by misidentifying the respondent. Even assuming the State's response was late or the respondent was misidentified, Langford fails to demonstrate he was prejudiced because his claims were procedurally barred. *See* NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.").

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Justin Odell Langford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 83032

FILED

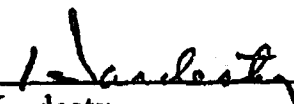
DEC 17 2021

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


ORDER DENYING PETITION FOR REVIEW


Review denied. NRAP 40B.


It is so ORDERED.¹



Hardesty, C.J.


Parraguirre, J.


Stiglich, J.


Cadish, J.


Pickering, J.


Herndon, J.

cc: Justin Odell Langford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹ The Honorable Abbi Silver, Justice, did not participate in the decision of this matter.

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

Supreme Court No. 83032
District Court Case No. A784811; ~~E296568~~

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: December 17, 2021

Elizabeth A. Brown, Clerk of Court

By: Andrew Lococo
Deputy Clerk

cc (without enclosures):

Justin Odell Langford
Clark County District Attorney \ Alexander G. Chen
Steven D. Grierson, Eighth District Court Clerk

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on DEC 20 2021

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED
APPEALS

DEC 20 2021

CLERK OF THE COURT

Justin Odell Langford, 1159546
LCC, 1200 Prison Rd
Lovelock, Nev. 89419

FILED
JAN 28 2022
Alvin L. Johnson
CLERK OF COURT

*PP
BA*

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF
NEVADA IN AND FOR THE COUNTY OF CLARK

Justin Odell Langford,
Petitioner

CASE No. : A-18-784811-W
DEPT No. : Dept. 9

vs.

Warden Tim Garrett,
Respondent,

PETITION FOR WRIT OF HABEAS
CORPUS (Post-Conviction)
HEARING REQUESTED

COMES NOW, Justin Odell Langford, In Pro Per, to file his
Petition For Writ Of Habeas Corpus (Post-Conviction), and
moves this Honorable Court to enter an order granting
his Petition.

This Petition is made and based upon NRS Chap. 34, and is
further made and base upon all papers, pleadings, and is
documents on file with this Honorable Court and the
attached Memorandum of Points and Authorities.

Respectfully Submitted By:

15/

Petitioner, In Pro Per

RECEIVED

JAN 19 2022

CLERK OF THE COURT

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D.025(1)(d) 6, 15

34,500(1) § (3) § (7) § (8) 22

174.035 6, 15

175.111 6, 15

175.191 10

Other

CJS 39A, sec. 39 22

CJS 41 22

GROUND 1

Petitioner was denied his constitutional rights to the Effective Assistance of counsel both prior to and during his state trial, which allowed the conviction of someone Actually Innocent In Violation of U.S. Const. Amends. V, VI, XIV

Petitioners' counsel failed to have the whole trial process transcribed which resulted in counsel missing obvious issues with the Jury Oath.

Petitioners' counsel failed to ensure she had full copy of Petitioners case file from the Clark County Public Defenders Office, Petitioners' counsel never had all the Justice Court Record, i.e. Justice Court Bind-over order.

Petitioners' counsel failed to read the entire pleadings of the state which allowed the state to suppress evidence from the defense.

All the above issues are argued as follows:

Oath of Jurors was not properly done! This is a jurisdictional defect, "where a court's power to act is controlled by statute, the court is governed by the rules of limited jurisdiction, and courts exercising jurisdiction over such matters must proceed within the structures of the statute." Stock v. Medical Examiners, 94 Ca. 2d 751, 211 P.2d 289 in interest of M. v., 288 Ill. App. 3d 300, 681 N.E. 2d 532 (1st Dist. 1997).

On March 8th, 2016 the trial court exceeded its statutory authority, NRS 175.111, when the court had the Court Clerk swear in the jury for the start of trial. See Day Two TT pg 147 line 13 which clearly states'

[The Court Clerk administers the Oath to the jury]

This is where the court lost its jurisdiction, as it exceeded its authority. NRS 175.111 mandates that the Court administer the Oath to the jury by using the term "shall", NRS 0.025(1)(a) definition of shall, the Oath for a jury in a criminal case is controlled by the above statutes.

Express mention of one is an exclusion of another, see *Leake v. Biadell*, 6 Nev. 40(1870); *Galloway v. Trusdell*, 83 Nev. 13, 26, 422 P.2d 13, 26(1976). In this matter, it clearly shows that it is mandatory for the court to administer the above Oath. "The Court" is interpreted as the Judge (See generally NRS 174.035, only the court can accept a plea of guilty). The TT clearly show that the court ~~losing jurisdiction~~ exceeded its authority, thus losing jurisdiction.

"The point of cause and prejudice, we repeat, is to overcome the waiver. But this analysis [1994 U.S. App. Lexis 173] of course assumes the error in question is a waivable one. And jurisdictional defects are not."

"Because jurisdictional defects are nonwaivable, we need not provide us with an excuse ("Cause and prejudice") adequate to convince us to forgive his waiver." *Kelly v. State* 29 F.3d 1107, 1994 U.S. App. Lexis 16732; See also *West v. West*,

127 P.2d 934, 937 ("A departure by a court from those recognized and established requirements of law however close and apparent.

Adherence to mere form in methods of procedure which has the effect of depriving one of a constitutional right is an excess of jurisdiction"); see also *Main v. Thiboutot*, 100 S.Ct. 2502 (1980); *Sramek v. Sramek*, 12 Kan. 1093 (1993).

There was never a lawful jury that existed in this matter, which also means they could not have found the essential elements of the crime beyond a reasonable doubt. see *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781 (1979) "emphasis in original". *McNair v. State*, 108 Nev. 53, 825 P.2d 571, 573 (1992). So with no lawful jury and a court who had no jurisdiction to hear testimony or admit evidence, there is no legal evidence for any court to determine guilt with.

Petitioners counsel stood and argued a moot case right along with deputy district Attorneys. Counsel violated the rules of candor in Nevada, see RPC 1.4 & RPC 8.4(a)(c)(d) when they argued a moot case. Also as stated in *Martinez v. Illinois*, 134 S.Ct. 2070 (2014) ("Leopardy doesn't attach until jury is sworn.

When a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges' orders are not voidable but VOID, and of no legal force or effect.

The 14TH Amendment applies the federal right to due process to state court cases. It is really a guarantee of fundamental fairness. Fair Trial! ... As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness

essential to the very concept of Justice. (See Post Conviction Relief: Secrets Exposed)

Due process does require that a defendant must be given adequate notice of the offense charged against him and for which he is to be tried (See Post Conviction Relief: Secrets Exposed). Petitioner can't be found to have been given adequate notice of the offenses charged against him based on an illegal complaint/information.

Petitioner's counsel allowed the State's prosecutor to maliciously prosecute him, the State filed a 12 count information in C14296556 in which he illegally ~~be~~ held on. Petitioner recently talked with his trial counsel and found out she never had a copy of the Bind-over order from Boulder City Justice Court, so she never knew the fact that the Justice Court Judge only bound petitioner over on 8 counts to have happened on or about January 21, 2014.

The Boulder City Justice Court explicitly stated in its Bind-Over Order that Petitioner was "to be held ~~for~~ to answer for the following" and listed only 8 counts. The 8TH Judicial District Court obtained its jurisdiction based on the Bind-Over Order. And that order only authorized the State to prosecute the Petitioner Base on it.

No where on the Docket Sheet for Case #C14296556 is there a motion to amend or motion for leave.

to file a different Information than what was authorized. So the information that the Petitioner went to trial on was illegal as there was no bind-over order granting the state to hold Petitioner for the charges as listed. The Judges written order is final. See *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 687, 747 P.2d 1380, 1382 (1987) ("Explaining that oral pronouncements from the bench are ineffective and only a written judgement has legal effect").

So as this Honorable Court can see the Bind-over order is the controlling item in this matter, so the 8th Judicial District Court legally had no Jurisdiction Based on the "Information" that is on record in case #C1429665.

Petitioner avers that he is "ACTUALLY INNOCENT" and only recently discovered that the underlying facts that are argued in this Groun can support a claim of Actual Innocence due to ineffective assistance of counsel and lack of Jurisdiction. (see *Post Conviction Relief: Secrets exposed*, just read this book on 11/15/21)

"[Actual innocence] being not the only grounds for [Langford's] petition, as it was offered only to SUPPORT his claim he fit within a "narrow class of cases... ~~imples~~ implicating a FUNDAMENTAL MISCARRIAGE OF JUSTICE."

Schlup v. Delo, 513 us @ 314, 115 s. ct. @ 860. Petitioner must show a constitutional violation at trial has probably resulted in the conviction of someone who is 'actually innocent. *Murray v. Carrier*, 477 us 496, 106 s. ct. 2639, 2649-50 (1986); see also

Rosc v. Lundy, 455 U.S. 509, 513-47, 71 L Ed 379, 102 S Ct 1198 (1982).

Nevada law is clear that the defendant is presumed innocent, Noting that "a defendant in a criminal action is presumed innocent until the contrary is proved...". NRS 175.191 see also Haywood v. State, 107 Nev 285, 288, 809 P.2d 1272, 1273 (1991) (The rule that one is innocent until proven guilty means that a defendant is entitled to not only the presumption of innocence, but also to 'indicia of innocence'). And do to the fact that there has been no legal trial do to Jurisdictional defects, the Petitioner stands before this Honorable Court **ACTUALLY INNOCENT**.

On 5/14/15 Petitioner filed a motion for discovery right along with a motion to dismiss counsel and appoint alternate counsel which were both granted, but the third was denied and it was a motion to dismiss case. Counsel apparently failed to read the statement of facts on the States Pleadings prior to trial, do to the fact that Counsel failed to raise the claim of "the state of Nevada willfully suppressed evidence".

Counsel for the State of Nevada with held the rag that H.H. described and all scientific reports relating to it. The DNA reports and evidence presented to the "Nonexisting Jury" due to it not being sworn properly, was not what they claim they had found at the alleged crime scene. The State of Nevada claims it

found the exact white towel as described by H.H. and where H.H. said it was. This is in all their statement of facts, also known as a Judicial Admission see *Reyburn Lawn & Landscape Design, Inc. v. Plaster Development Co., Inc., a Nev. Corp.*, 127 Nev. 331, 343, 225 P3d 268 (2011) ("Judicial Admissions are defined as deliberate, clear, unequivocal statements by a party about a concrete fact within that party's knowledge" (citing *Smith v. Pavlovich*, 47 P3d 458)).

Counsel for the State can't claim that it did hand over all evidence, especially when the alleged victim H.H. confirmed under the penalty of perjury that the towel was about 12 inches long and 6 inches wide. see TT Day 3 pg. 86 Lines 8-10. The Court can see from States Exhibits 32, 35, 36 that not only was the towel found way bigger than described but it was also in drawer 3 on the first column and not drawer 2 as H.H. had said and in her drawing in States Exhibit 41.

Brady violation has three elements. *Strickler* 527 U.S. at 281-82. First there must be evidence that is favorable to the defense, either because it is exculpatory or impeaching. *Id.* at 281-82. Second the government must have willfully or inadvertently failed to produce the evidence, *Id.* at 282. Third, the suppression must have prejudiced the defendant, see also *Grisby v. Blodgett*, 130 F.3d 365 (9th Cir. 1997) (Government's suppression of exculpatory evidence violates due process).

With counsel for Defendant/Petitioner having all the photos before trial and not noticing this obvious issue of physical

evidence being withheld, it is also obvious counsel didn't read any of the pleadings filed by counsel for the state as this has been in every pleading filed since the case was filed in this Honorable Court. Counsel for the respondent can't claim this is a typo or any other mistake as it is in every response and motion filed by the state. Petitioner obtain a majority of the trial Exhibits from the Court Clerk and only recently noticed the discrepancy of the location of the towel. See Roberts v. State, 110 Nev. 1121, 851 P.2d 1 (Nev. 1994) ("When the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting credibility falls within [Brady]").

Petitioner avers that if the prosecution was to produce it would show they presented false evidence at trial and false testimony as they had the alleged victim H.H. Testify to the towel presented at trial as the towel she described when they knew it wasn't the towel.

All allegations of ineffective assistance contained in this petition cannot reasonably be presumed to be the result of any tactical or strategic choice within the range of reasonable attorney competence. Rather, the defects were the result of counsel, lack of preparation, experience, knowledge, and skill. Cumulative and singularly, counsel's failings resulted in prejudice to petitioner. Specifically, the errors alleged in this petition deprived petitioner of a fair trial complete with a

Constitutionally reliable outcome. See *Strickland v. Washington*, 466 U.S. 693, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984); compare with *U.S. v. Goss*, 466 U.S. 648, 80 L.Ed.2d 657, 104 S.Ct. 2039 (1984).

Petitioner was denied his procedural due process rights and stands before this court with his cloak of innocence and is 'ACTUALLY INNOCENT'.

Petitioner moves the Honorable Court to enter an order vacating his conviction and for his release from custody and be returned to his home in Searchlight, NV. and declare the Petitioner 'ACTUALLY INNOCENT'.

GROUND 2

Petitioner was denied his constitutional rights to a Fair Trial and Procedural Due Process caused by a Jurisdictional Defect which caused ~~Lack~~ Insufficient Evidence and a Unconstitutional Conviction. In Violation of U.S. Const. Amend. XIV

Petitioners Trial Court Lacks Jurisdiction due to a Illegal Complaint and Jury Never Legally being sworn which means Insufficient Evidence was presented due to no authority to admit evidence.

Oath of Jurors' was not properly done! This is a Jurisdictional defect, "where a court's power to act is controlled by statute, the court is governed by the rules of limited jurisdiction, and courts exercising jurisdiction over such matters must proceed within the structures of the statute". *Stacks v. Medical Examiners*, 94 Ca 2d 751, 211 P2d 289 in interest of M. V., 253 Ill. App.3d 300, 651 N.E.2d 532 (2nd Dist. 1997).

On March 8TH, 2016 the trial court exceeded its statutory authority, NBS 175.111, when the court had the Court Clerk swear in the jury for the start of trial. See Day Two TT pg 147 Line 13 which clearly states:

[The Court Clerk administers the Oath to the Jury]

This is where the court lost its Jurisdiction, as it exceeded its

authority, NRS 175.111 mandates that the Court administer the Oath to the Jury by using the term "Shall", NRS 0.025(1)(d) definition of shall, the Oath for a jury in a criminal case is controlled by the above statutes.

Express mention of one is an exclusion of another. see *Leake v. Blasdell*, 6 Nev. 40(1870); *Galloway v. Trudell* 83 Nev. 13, 26 422 P.2d 13 26(1976). In this matter, it clearly shows that it is mandatory for the court to administer the above Oath. "The Court" is interpreted as the Judge. (See generally NRS 174.085, only the Court can accept a plea of guilty.). The TT clearly show that the Court, exceeded its authority, thus losing jurisdiction.

"The point of cause and prejudice, we repeat, is to overcome the waiver. But this analysis. [1994 U.S. App. Lexis 173] of course assumes the error in question is a waivable one. And jurisdictional defects are not."

"Because jurisdictional defects are nonwaivable, [petitioner] need not provide us with an excuse ("cause and prejudice") adequate to convince us to forgive his waiver." *Kelly v. State*, 29 F3d 1107, 1994 U.S. App. Lexis 16732; see also *West v. West*, 127 P.2d 934, 937 ("A departure by a court from those recognized and established requirements of law however close and apparent. Adherence to mere form in methods of procedure which has the effect of depriving one of a constitutional right is an excess of jurisdiction."); see also *Main v. Thiboutot*, 100 S. Ct 2502(1980); *Sramek v. Sramek*, 17 Kan. 1093(1993).

There was never a lawful jury that existed in this matter,

which also means they could not have found the essential elements of the crime beyond a reasonable doubt. See Jackson v. Virginia, 413 U.S. 307, 319, 99 S.Ct. 2781 (1974) "emphasis in original", McNair v. State, 108 Nev. 53, 825 P.2d 571, 573 (1992). So with no lawful jury and a court who had no jurisdiction to hear testimony or admit evidence, there is no legal evidence for any court to determine guilt with, nor could a jury find guilt.

When a judge does not follow the law, the judge loses subject-matter jurisdiction and the judge's orders are not voidable but VOID, and of no legal force or effect.

The 14th Amendment applies the federal right to due process to state court cases. It is really a guarantee of "Fundamental Fairness, Fair Trial"... As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness essential to the very concept of justice. (See Post Conviction Relief: Secrets Exposed).

Due process does ~~not~~ require that a defendant must be given adequate notice of the offense charged against him and for which he is to be ~~exposed~~ tried. (See Post Conviction Relief: Secrets Exposed), Petitioner can't be found to have been given adequate notice of the offenses charged against him based on an illegal Information/Complaint.

The state filed a 12 count information in case # C14296556 in which he is being illegally held on. The Boulder City Justice Court explicitly stated in its Bind-over order that Petitioner was "to be held to answer for

the following" then it listed five (5) counts of Lewdness with a child under the age of 14 and three (3) counts of Sexual Assault on a minor under the age of 14 to have been committed on or about Jan. 21, 2014. This is extremely different than what the Petitioner went to trial on and is in custody on. The Count Petitioner is held on ~~or about~~ reads "Lewdness with a minor under 14 with a date range of June 22, 2007 to January 21, 2014," is nowhere near what Petitioner was bound over on.

No where on the Docket Sheet for Case # C14296556 is there a motion to amend or motion for leave to file a different information than what was authorized, also the information would require a affidavit in support of it other than the District Attorney. The Justice Court Bind-over Order is the Judges written order and is final. See Rust v. Clark Cty. Sch. Dist., 103 Nev. 686, 689, 747 P.2d 1350, 1382 (1987) ("Explaining that oral pronouncements from the Bench are ineffective and only a written judgement has legal effect.").

So as this Honorable Court can see the Bind-over order is the controlling document in this matter as it is the document that initiates the District Court case, so this had no jurisdiction in case # C14296556 to try the Petitioner based on the information he is being held on. Let alone conduct a trial and take testimony or any evidence. Meaning there is insufficient evidence to convict on.

Petitioner moves the Honorable Court to enter an Order

Vacating his Conviction and for his released from Custody

and be returned to his home in Searchlight, NV.

GROUND 3

Petitioner was denied his constitutional rights to a Fair Trial, Procedural Due Process, Effective Assistance of Counsel caused by the State of Nevada charging Petitioner with an Unconstitutional Statute. In Violation of U.S. Const. Amends. V, VI, VIII, XIV

Petitioner's Trial Court Lacks Jurisdiction to try and convict the Petitioner based on a statute that is overbroad in the conduct a defendant can't do to be convicted of Lewdness with a minor under the age of 14.

In 2020 the Nevada Supreme Court ruled in *Honea v. State*, 466 P.3d 522; 2020 Nev. Lexis 32; 136 Nev. Adv. Rep. 32 (No. 76621) [the offense of sexual assault, regardless of whether it was committed against a minor, has two statutory elements: "(1) subject[ing] another person to sexual penetration... (2) against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct." *Id.* at 655-56, 404 P.3d at 766 (Alteration in original) (emphasis added) (quoting 2007 Nev. Stat., ch. 528, § 37, at 3255 (NRS 200.366(1))). We explained that the victim's age was not an element of sexual assault or 'essential to a finding of guilt'. *Id.* at 655, 404 P.3d at 765. Thus, the victim's

age, alone, does not establish the victim's ability to consent or the capacity to resist or understand the nature of the sexual conduct. Which puts the issue of consent at issue. see also *Matthews v. State*, 134 Nev. 512, 517 (2018); *Crawford v. State*, 121 Nev. 746, 751, 121 P.3d 582, 586 (2005).

The Ruling in *Honea*, supra puts the legality of Nev. Rev. Stat. 201.230 at issue as being over-broad as it encompasses a wide base of acts, from acts that can be committed during the course of consensual sex with a minor. The wording in Nev. Rev. Stat. 201.230 has been the same since it was enacted, and states in Pertinent Part:

- A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a child.

to demonstrate to the Court how broad Nev. Rev. Stat. 201.230 is petitioners points the court to Counts 2, 6, and 12 of the information filed on Mar. 27th 2014 all of which are quoted below: (Petitioner was acquitted of counts 6 and 12)

COUNT 2

- did on or between June 22, 2007 and January 21, 2014 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: HH, said child under the age of fourteen years, by rubbing and/or placing ejaculate on the said HH's face, with the intent of arousing appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child

1) Overbroad adj: not sufficiently restricted to a specific subject or purpose (an ~ search); esp. characterized by a prohibition or chilling effect on constitutionally protected conduct (an ~ statute). Merriam-Webster's Dictionary of Law, 2016th, pg. 343

COUNT 6

did on or between June 22, 2008 and June 21, 2013 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: HH, said child being under the age of fourteen years, by touching and/or fondling the said HH's genitals with his penis, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant or said child.

COUNT 12

did on or between June 22, 2007 and January 21, 2014 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or with the body, or any part or member thereof, a child, to-wit: HH, said child being under the age of Fourteen years, by touching and/or rubbing and/or fondling of the said HH's buttock(s) and/or anal area with his penis, with the intent of arousing, appealing to, or gratifying the lust passions, or sexual desires of said Defendant or said child.

Counts 6 and 12 happened allegedly during an alleged rape of Petitioner's ex-stepdaughter in which he was acquitted of, and count 2 supposedly happened while in a shower with her and no other sexual acts allegedly happened.

The Nevada Supreme Court has ruled that there is no need to prove lack of consent when it comes to lewdness with a minor, as a minor can't consent when under 14, but it just ruled the opposite in *Hanea*, 2020 Nev. Lexis 32, for NRS 200.366 enacted in 2007. So it makes NRS 201.230 a catch 22 damned if you do and damned if you don't. Another words you can have consensual sex with a minor under 14 prior to 2015 and still be convicted of lewdness. You can't create laws that say an act prior to something that is legal (consensual sex with a minor) and make it illegal, it becomes a catch all and over broad and Unconstitutional.

"The challenge in this case goes to the subject-matter jurisdiction of the court and hence its power to issue the order, the distinction between subject matter jurisdiction and waivable defenses is not a mere nicety of legal metaphysics. It rests instead on the central principle of a free society that courts have finite bounds of authority, some of constitutional origins, which exist to protect citizens from the very wrong asserted here, the excessive use of judicial power."
USCC v. ARM, Inc., 487 US 72 (1988).

CJS 41 notes that "A person imprisoned for committing an act that does not constitute any offense may be released on habeas Corpus. *Hill v. Sanford*, C.L.A. Ga. 131 F.2d 417. This also applies to a person detained under an unconstitutional or invalid statute or ordinance; this is grounds for a writ of habeas corpus!" see also CJS 39A, sec. 34; *Bland v. Rodgers*, 332 F. Supp. 989; Nev. Rev. Stat. 34, 500 ~~(1) & (3) & (4) & (5)~~,

"[T]he court's statutory... power to adjudicate is defined as subject matter jurisdiction. *Cotton v. U.S.*, 535 U.S. 625, 630 (2002), it logically follows that an unconstitutional law deprives a court of subject matter jurisdiction rendering judgments void. see *Wright v. West*, 505 U.S. 277, 285 (1992) ("Court without jurisdiction to impose sentence under unconstitutional statute") (citing *Ex Parte Siebold*, 100 U.S. 371, 377 (1880); *Ex Parte Smith*, 126 P. 655, 669 (Nev. 1912) (an unconstitutional law "is a jurisdictional defect."); *Ex Parte Rosenblatt*, 14 P. 298, 299 (Nev. 1887) (holding that an unconstitutional law is void and insufficient to give jurisdiction to the court) (citing *Ex Parte Siebold*, *supra*).

"The point of cause and prejudice, we repeat, is to overcome the waiver. But this analysis {1994 U.S. App. Lexis 17} of course assumes the error in question is a waivable one. And jurisdictional defects are not."

"Because jurisdictional defects are nonwaivable, ... need not provide us with an excuse ("cause and prejudice") adequate to convince us to forgive his waiver." Kelly v. State, 29 F3d 1107, 1994 U.S. App. Lexis 16732; see also West v. West, 127 P2d 934, 937; Main v. Thiboutot, 100 S.Ct. 2502 (1980); Sramek v. Sramek, 17 Kan. 1093 (1912); petitioner invokes his right to the Doctrine "Stare decisis".

Petitioner moves the Honorable Court to enter an order vacating his conviction and for his release from custody and be returned to his home in Searchlight, NV.

CONCLUSION

The Petitioner raised 3 new grounds which just became available within the last 4 months. The Petitioner quit researching the issue of consent when he was acquitted on 11 of the 12 counts that he illegally went to trial on and only became aware of the count 3 claim when another inmate 3 months ago brought the 2020 case of *Honea v. State* to attention.

VERIFICATION

I, Justin Odell Langford, declare and verify, that I have read the above-entitled document and that to the best of my knowledge and belief that it is true and correct under the pains and penalties of perjury pursuant to 28 U.S.C. 31746.

DATE: 12/26/21



Justin Odell Langford, #1159546

LCC, 1200 Prison Road

Lovelock Nevada 89419

CERTIFICATE OF SERVICE


I, certify, that I have attached a true and ~~corret~~ correct copy of the above entitled document, with special instructions to the Clerk of the court to E-file and E-serve all of my opponents pursuant to N.E.F.C.R. 5(w), 9 et seq. CA-E) etc., to the following:

Warden Tim Garrett

Aaron Ford, Attny. Gen.

Steven Wolfson, Clark County D.A.

DATE: 12/26/21



Justin Odell Langford, 1159546

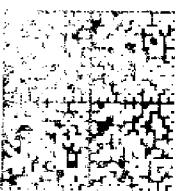
LCC, 1200 Prison Rd

Lovelock, Nev. 89419

Justin Adell Langford-1159546
LCC, 1200 Prison Road
Loveland, Nev 89155

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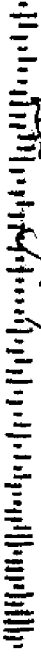


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Las Vegas, Nev. 89155

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1 Justin Odell Langford - 1159546

2 LCC 1200 Prison Road

3 Lovelock, Nev. 89419

4 Paralegal/Pro per

5

FILED

FEB 18 2022

Sharon A. Spivey
CLERK OF COURT

6 IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF CLARK

8 * * * * *

9 Justin Odell Langford,

CASE No. A-18-784811-W

10 Petitioner,

11 v.

12 Warden Tim Garrett,

NOTICE OF APPEAL

13 Respondent.

14

15 COMES NOW, Justin Odell Langford, In Pro per, To File

16 his notice of appeal, wherein he is challenging the denial

17 of his Petition for Writ of Habeas Corpus (Post-

18 conviction) that was entered on Jan. 31, 2022 By Judge

19 Cristina D. Silva.

20

21 Date:

22 Respectfully Submitted,

23 *Justin Odell Langford*

24 Justin Odell Langford

CLERK OF THE COURT

RECEIVED
FEB 19 2022

Justin Odell Langford-1159546
LCC, 1200 Prison Road
LoveLock, Nev. 89419

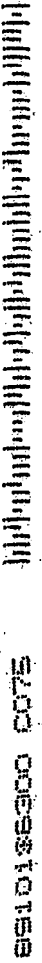
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7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 JUSTIN ODELL LANGFORD,

11 Plaintiff(s),

12 vs.

13 WARDEN RENEE BAKER,

14 Defendant(s),
15

Case No: A-18-784811-W

Dept No: IX

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Justin Odell Langford

19 2. Judge: Cristina Silva

20 3. Appellant(s): Justin Odell Langford

21 Counsel:

22 Justin Odell Langford #1159546
23 1200 Prison Rd.
24 Lovelock, NV 89419

25 4. Respondent (s): Warden Renee Baker

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

- 1
2 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
3 Permission Granted: N/A
4 Respondent(s)'s Attorney Licensed in Nevada: Yes
5 Permission Granted: N/A
6
7 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
8
9 7. Appellant Represented by Appointed Counsel On Appeal: N/A
10
11 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, February 11, 2021
12 **Expires 1 year from date filed (Expired)
13 Appellant Filed Application to Proceed in Forma Pauperis: No
14 Date Application(s) filed: N/A
15
16 9. Date Commenced in District Court: November 19, 2018
17
18 10. Brief Description of the Nature of the Action: Civil Writ
19 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
20
21 11. Previous Appeal: Yes
22 Supreme Court Docket Number(s): 78144, 83032
23
24 12. Child Custody or Visitation: N/A
25
26 13. Possibility of Settlement: Unknown

27 Dated This 22 day of February 2022.

28 Steven D. Grierson, Clerk of the Court

29
30
31 /s/ Heather Ungermann

32 Heather Ungermann, Deputy Clerk
33 200 Lewis Ave
34 PO Box 551601
35 Las Vegas, Nevada 89155-1601
36 (702) 671-0512

37 cc: Justin Odell Langford
38
39
40

1 **FCCO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ALEXANDER CHEN
6 Chief Deputy District Attorney
7 Nevada Bar #010539
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 **JUSTIN LANGFORD,**
10 **#2748452**
11
12
13
14

Petitioner,
-vs-

CASE NO: **A-18-784811-W**
C-14-296556-1

THE STATE OF NEVADA,
Respondent.

DEPT NO: **II**

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 DATE OF HEARING: **JANUARY 31, 2022**
18 TIME OF HEARING: **CHAMBERS**

19 THIS CAUSE having presented before the Honorable CRISTINA SILVA, District
20 Judge, on the 31st day of January, 2022, IN CHAMBERS; Parties not present; and having
21 considered the matter's procedural history, the Court makes the following Findings of Fact
22 and Conclusions of Law:

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1 FINDINGS OF FACT

2 CONCLUSIONS OF LAW

3 Petitioner Justin Langford filed this Petition for Writ of Habeas Corpus on January 28,
4 2022. Prior to the filing of this Petition for Writ of Habeas Corpus, Petitioner had previously
5 filed his first Petition for Writ of Habeas Corpus on November 19, 2018. The matter was heard
6 by The Honorable Joe Hardy. His Petition was denied in a Findings of Fact, Conclusions of
7 Law and Order on March 11, 2019. He appealed the denial of his Petition, but the Nevada
8 Court of Appeals affirmed the denial of his Petition and affirmed the Judgment of Conviction.
9 Docket No. 78144 (August 13, 2019).

10 Petitioner then filed a second Petition for Writ of Habeas Corpus on March 9, 2021.
11 This matter was heard by The Honorable Jasmin Lilly-Spells. On July 22, 2021, the district
12 court issued a Findings of Fact, Conclusions of Law and Order denying his second Petition.
13 Petitioner again appealed the denial of his second Petition, but the Nevada Court of Appeals
14 affirmed the Judgment of Conviction and denied his appeal. Docket No. 83032 (December 20,
15 2021).

16 On January 28, 2022, Petitioner filed his third Petition for Writ of Habeas Corpus. This
17 Court has reviewed the Petition and has determined that a response would not assist the Court
18 in determining whether Petitioner is illegally imprisoned and restrained of his liberty as this
19 matter has previously been briefed. Petitioner previously filed the same Petition on November
20 19, 2018 which was denied on January 28, 2019 by Judge Hardy and February 09, 2021 which
21 was denied on May 19, 2021 by Judge Lilly-Spells. The Nevada Court of Appeals affirmed
22 both decisions on August 13, 2019 and December 20, 2021 respectively. This Court adopts
23 both decisions for denial on this matter.

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ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief Hearing shall be denied.

Dated this 20th day of April, 2022

Carli Kierny

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

98B B09 3D96 4860
Carli Kierny
District Court Judge
Signed for Judge Cristina Silva

BY

Alexander Chen

ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539

hjc/SVU

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Justin Langford, Plaintiff(s)

CASE NO: A-18-784811-W

7 vs.

DEPT. NO. Department 2

8 Warden Renee Baker,
9 Defendant(s)

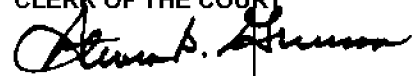
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11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

16 Service Date: 4/20/2022

17 maria case-bateson

18 maria.case-bateson@clarkcountyda.com



1 NEFF

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 JUSTIN LANGFORD,

6 Petitioner,

Case No: A-18-784811-W

Dept No: II

7 vs.

8 WARDEN RENEE BAKER; ET.AL.,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

10
11 **PLEASE TAKE NOTICE** that on April 20, 2022, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
15 to you. This notice was mailed on April 27, 2022.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 27 day of April 2022, I served a copy of this Notice of Entry on the following:

21 By e-mail:
22 Clark County District Attorney's Office
23 Attorney General's Office – Appellate Division-

24 The United States mail addressed as follows:
25 Justin Langford # 1159546
26 1200 Prison Rd.
27 Lovelock, NV 89419

28 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

1 **FCCO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ALEXANDER CHEN
6 Chief Deputy District Attorney
7 Nevada Bar #010539
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 **JUSTIN LANGFORD,**
10 **#2748452**
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Petitioner,
-vs-
THE STATE OF NEVADA,
Respondent.

CASE NO: **A-18-784811-W**
C-14-296556-1
DEPT NO: **II**

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16 **LAW AND ORDER**

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18 **TIME OF HEARING: CHAMBERS**

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2 CONCLUSIONS OF LAW

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ORDER

THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief Hearing shall be denied.

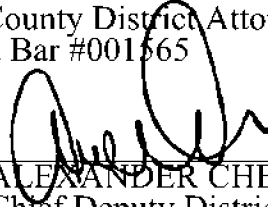
Dated this 20th day of April, 2022

Carli Kierny

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

98B B09 3D96 4860
Carli Kierny
District Court Judge
Signed for Judge Cristina Silva

BY



ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539

hjc/SVU

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Justin Langford, Plaintiff(s)

CASE NO: A-18-784811-W

7 vs.

DEPT. NO. Department 2

8 Warden Renee Baker,
9 Defendant(s)

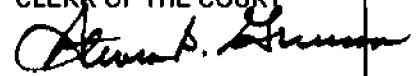
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Service Date: 4/20/2022

16 maria case-bateson

maria.case-bateson@clarkcountyda.com



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JUSTIN ODELL LANGFORD,
13 #2748452

14 Defendant.

CASE NO: A-18-784811-W

C-14-296556-1

DEPT NO: II

15 **STATE'S RESPONSE TO DEFENDANT'S**
16 **PETITION TO ESTABLISH FACTUAL INNOCENCE**

17 **DATE OF HEARING: August 8, 2022**

18 **TIME OF HEARING: 9:30 AM**

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Response to Defendant's Petition to Establish
22 Factual Innocence.

23 This opposition is made and based upon all the papers and pleadings on file herein, the
24 attached points and authorities in support hereof, and oral argument at the time of hearing, if
25 deemed necessary by this Honorable Court.

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 The following is a partial list of proceedings in this matter.

4 On March 14, 2014, JUSTIN ODELL LANGFORD (hereinafter "Petitioner") was
5 charged by way of Information with the following: COUNTS 1, 2, 6, 7, 8, 10, 11, and 12 –
6 Lewdness With A Child Under The Age Of 14 (Category A Felony - NRS 201.230); COUNTS
7 3, 4, and 5 – Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony
8 - NRS 200.364, 200.366); and COUNT 9 – Child Abuse, Neglect, or Endangerment (Category
9 B Felony - NRS 200.508(1)). This was amended in open court on March 27, 2014.

10 After several continuances at Petitioner's request, on March 7, 2016, a jury trial
11 convened and lasted nine days. On March 17, 2016, the jury returned a guilty verdict as to
12 COUNT 2, and not guilty as to all other Counts. On May 10, 2016, Petitioner was sentenced
13 to Life with a possibility of parole after a term of 10 years have been served in the Nevada
14 Department of Corrections ("NDOC"). Petitioner received eight hundred forty-one (841) days
15 credit for time served. The Judgment of Conviction was filed on May 17, 2016.

16 On June 1, 2016, Petitioner filed a Notice of Appeal from his conviction. On June 27,
17 2017, the Nevada Supreme Court affirmed the Judgment of Conviction. Docket No. 70536
18 (Order of Affirmance, June 27, 2017). Remittitur issued July 28, 2017.

19 On July 19, 2017, Petitioner filed a Motion to Modify and/or Correct Sentence ("Motion
20 to Modify"), Motion for Sentence Reduction ("Motion for Reduction"), Motion for Production
21 of Documents, Papers, Pleadings, and Tangible Property of Petitioner, a Motion for
22 Transcripts at the State's Expense and Memorandum of Point and Authorities in Support of
23 Request for Transcripts at State's Expense, a Motion to Obtain a Copy of a Sealed Record,
24 and a Motion to Withdraw Counsel. The State filed its Response to Petitioner's Motion to
25 Modify and/or Correct Sentence and Motion for Sentence Reduction on August 2, 2017. On
26 August 10, 2017, the Court denied Petitioner's Motion for Sentence Reduction, granted
27 Petitioner's Motion for Production of Documents, Papers, Pleadings, and Tangible Property
28 of Petitioner, denied Petitioner's Motion for Transcripts at State's Expense, granted

1 Petitioner's Motion to withdraw Counsel, granted Petitioner's Motion to Obtain Copy of a
2 Sealed Record, and denied Petitioner's Motion to Modify/Correct Illegal Sentence.

3 On October 10, 2017, Petitioner filed a Motion to Claim and Exercise Rights
4 Guaranteed by the Constitution for the United States of America and Require the Presiding
5 Judge to Rule upon this Motion, and All Public Officers of this Court to Uphold Said Rights
6 and an affidavit in support of that Motion. He also filed a Motion to Reconsider Transcripts at
7 State's Expense, a Motion to Compel Court Orders, and a Motion to Reconsider Motions for
8 Correction of Illegal Sentence and Sentence Reduction. The State responded to the Motion to
9 Reconsider Motions for Correction of Illegal Sentence and Sentence Reduction on October 30,
10 2017. On October 31, 2017, the Court denied all of Petitioner's Motions, and the order was
11 filed on November 7, 2017.

12 On November 27, 2017, Petitioner filed a Motion for Ancillary Services and a Motion
13 for Transcripts and Other Court Documents and State's Expense. The State filed its Opposition
14 to Petitioner's Motion for Ancillary Services on December 13, 2017. The Court denied
15 Petitioner's Motions on December 19, 2017, and the order was filed on December 29, 2017.

16 On December 29, 2017, Petitioner filed a "Notice of Understanding of Intent and Claim
17 of Right as well as a Notice of Denial of Consent." He additionally filed a Petition for Writ of
18 Habeas Corpus (Post-Conviction), Memorandum in Support of Petition, Motion for
19 Appointment of Counsel, and Request for Evidentiary Hearing. The State responded to
20 Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Memo in Support, Motion
21 to Appoint Counsel, and Motion for Evidentiary Hearing on February 20, 2018. On March 7,
22 2018, Petitioner filed a Motion for Summary Judgment on Petition for Writ of Habeas Corpus
23 (Post-Conviction) Due to Respondent's Silence, and on March 15, 2018, he filed a Motion to
24 Strike State's Response [to Petitioner's Petition]. In both of those, he alleged that since the
25 State did not respond by February 19, 2018 (45 days from the order to respond), its Response
26 should be disregarded. Pursuant to Eighth Judicial District Court Rule 1.14(b), "If any day on
27 which an act required to be done by any one of these rules falls on a Saturday, Sunday or legal
28 holiday, the act may be performed on the next succeeding judicial day." February 19, 2018

1 was a legal holiday; thus, the State properly filed its Response on the next succeeding judicial
2 day, February 20, 2018.

3 On March 15, 2018, Petitioner filed a Motion for Stay of Sentence. The State responded
4 on April 2, 2018. That motion was denied on April 5, 2018. On March 30, 2018, Petitioner
5 filed a Motion to Modify and/or Correct Illegal Sentence and "Judicial Notice of Lack of
6 Jurisdiction" claiming that the District Court lacked subject matter jurisdiction to sentence
7 him.

8 On April 24, 2018, Petitioner filed a Pro Per Petition for Writ of Habeas Corpus. On
9 March 7, 2018, Petitioner filed a Motion for Summary Judgment on Writ of Habeas Corpus
10 (Post-Conviction). On May 1, 2018 the court issued an Order denying Petitioner's Motion. On
11 June 1, 2018, the court entered an order denying Petitioner's Motion to Modify and/or Correct
12 Illegal Sentence and "Judicial Notice of Lack of Jurisdiction. The court also entered its
13 Findings of Fact, Conclusions of Law, and Order. On July 2, 2018 this case was reassigned to
14 Department 15. Petitioner appealed and the Nevada Supreme Court affirmed on March 29,
15 2019. Docket No. 75825 (Order of Affirmance, Mar. 29, 2019).

16 On August 28, 2018 Petitioner filed a Motion to Recuse and Application for Bail. The
17 State filed its Response on October 8, 2018. On August 31, 2018, Petitioner filed a Post-
18 Conviction Petition Requesting a Genetic Marker Analysis. The State filed its Opposition on
19 September 17, 2018. The court denied Petitioner's Motions on October 9, 2018 and filed its
20 Order on November 6, 2018. Petitioner appealed and the Nevada Supreme Court affirmed on
21 April 12, 2019. Docket No. 77262 (Order of Affirmance, Apr. 12, 2019).

22 On November 19, 2018, Petitioner filed a Petition for Writ of Habeas Corpus. The State
23 filed its Response on January 17, 2019. The court denied Petitioner's Petition and filed its
24 Findings of Fact, Conclusions of Law and Order on March 11, 2019.

25 On March 28, 2019, Petitioner filed a Motion to Compel Production of Documents
26 Pursuant to 5 U.S.C.S. 552-Freedom of Information Act. The court denied Petitioner's Motion
27 on April 25, 2019. The court filed its Order on May 17, 2019.

28 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted

1 the Motion on September 19, 2019, directing the Clerk's Office to file an Amended Judgment
2 of Conviction with no change to the language, but amending the nature of the closure of the
3 case to reflect that the case was closed after a jury-trial conviction. The Amended Judgment
4 of Conviction was filed on September 23, 2019.

5 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
6 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The court
7 granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight hundred
8 fifty-nine (859) days credit for time served. The Second Amended Judgment of Conviction
9 was filed on October 23, 2019.

10 On November 19, 2019, Petitioner filed a Petition for Writ of Habeas Corpus and
11 Motion to Compel Production of Transcripts. Petitioner filed an Addendum to Motion to
12 Compel Production of Transcripts on December 2, 2019.

13 On December 5, 2019, Petitioner filed a Motion to Hold Monique McNeill, Esq.,
14 Attorney of Record in Contempt for Failing to Forward Copy of Case File. On December 6,
15 2019, Petitioner filed a Petition for Writ of Habeas Corpus Ad Testificandum/Alternatively a
16 Telephone Hearing. On December 10, 2019, the court granted the Motion to Compel
17 Production of Transcripts and denied Petitioner's Petition as moot. The Findings of Fact,
18 Conclusions of Law, and Order was filed on December 23, 2019. On January 7, 2020, the court
19 held a hearing on Petitioner's Motion to Hold Monique McNeill, Esq., Attorney of Record in
20 Contempt for Failing to Forward Copy of Case File. The court continued the matter to allow
21 Ms. McNeill to file an Opposition and appear at the hearing. The court issued a Notice of
22 Hearing for the Motion and continued the hearing. On January 30, 2020, Ms. McNeill did not
23 appear at the hearing, and the court ordered an Order to Show Cause as to why Ms. McNeill
24 should not be held in contempt for failure to provide Petitioner with the file and for her failure
25 to appear for the hearing. On February 18, 2020, Ms. McNeill appeared at the Show Cause
26 hearing and told the court she had provided Petitioner with his file on four (4) different
27 occasions. The court held that cause had been shown, and Ms. McNeill would not be held in
28 contempt of court. The court also denied Petitioner's Motion to Hold Monique McNeill, Esq.,

1 Attorney of Record in Contempt for Failing to Forward Copy of Case File.

2 On February 25, 2020, Petitioner filed a Petition for Writ of Habeas Corpus Ad
3 Testificandum. The same day, Petitioner also filed a Motion to Correct Illegal Sentence. The
4 State filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10, 2020.
5 On March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the district
6 court denied Petitioner's Motion. The Order was filed on March 26, 2020. On March 30, 2020,
7 Petitioner filed a Notice of Appeal, appealing the denial of Petitioner's Motion to Correct
8 Illegal Sentence. On October 16, 2020, the Nevada Court of Appeals affirmed the district
9 court's denial of Petitioner's Motion to Correct Illegal Sentence. Langford v. State, Docket
10 No. 80972-COA (Order of Affirmance, Oct. 16, 2020) .

11 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
12 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
13 2020.

14 On February 9, 2021, Petitioner filed a Petition for Writ of Habeas Corpus (Post-
15 Conviction), Motion for Appointment of Attorney, and Request for Evidentiary Hearing.
16 Petitioner filed an Addendum to Petition for Writ of Habeas Corpus Pursuant to all Writs Act
17 on February 25, 2021. On March 8, 2021, Petitioner filed an additional Motion for
18 Appointment of Attorney. The same day, Petitioner also filed an Ex Parte Motion to Shorten
19 Time Pursuant to EDCR 5.513 and a Motion to Continue. On March 17, 2021, Petitioner filed
20 a Request for Judicial Notice and Judicial Action to be Taken, Motion for an Order to Produce
21 Prisoner, and Motion for Discovery/Motion for Order to Show Cause. The State filed its
22 Response on April 5, 2021.

23 On June 9, 2021, Petitioner filed a Motion to Correct Illegal Sentence. The State
24 responded June 16, 2021. Petitioner filed a Preemptive Reply to State's Opposition on June
25 22, 2021. The Motion was denied June 30, 2021. The Findings of Fact, Conclusions of Law
26 and Order was filed July 22, 2021.

27 On August 19, 2021, Petitioner filed a Motion to Correct Illegal Sentence. The State
28 opposed the Motion on August 24, 2021. Petitioner responded September 9, 2021. The Motion

1 was denied September 22, 2021. Petitioner filed a Notice of Appeal on October 11, 2021. The
2 Findings of Fact, Conclusions of Law, and Order were filed April 20, 2022. On April 13, 2022,
3 the Nevada Court of Appeals affirmed the district court's denial of Petitioner's Motion to
4 Correct Illegal Sentence. Langford v. State, Docket No. 83643-COA (Order of Affirmance,
5 Apr. 13, 2022).

6 On June 8, 2022, Petitioner filed a Motion to Vacate and/or Correct an Illegal Sentence.
7 The State filed its opposition on June 14, 2022. The motion was denied June 29, 2022.

8 The instant Petition to Establish Factual Innocence Pursuant to NRS 34.900 ("Petition")
9 was filed on July 14, 2022.

10 STATEMENT OF FACTS

11 Petitioner ejaculated on his stepdaughter's face in the shower when she was a little kid.

12 ARGUMENT

13 Petitioner challenges, yet again, his conviction for molesting his stepdaughter. The
14 vehicle this time is a claim of factual innocence. Since he does not allege new facts showing
15 he did not ejaculate on the child's face, his claim of innocence fails.

16 **I. ONLY A CHARGING DOCUMENT MUST CHARGE A CRIME**

17 This claim is improperly raised in a petition to establish factual innocence as it is not a
18 bona fide claim of factual innocence, but an allegation of error by the State. See section III
19 below. Regardless, this claim obviously fails on its merits.

20 Petitioner alleges the Statement of Facts in one of the State's responses to his many
21 pleadings did not adequately accuse him of the crime in Count 2 and that his PSI did not accuse
22 him of Count 2. Therefore, he believes he was not charged with Count 2, despite the fact that
23 a jury convicted him of it. Petition at 5. He is incorrect. A statement of facts and a PSI are not
24 charging documents. Neither is required to properly charge a crime.

25 Petitioner was charged with Count 2 in the Information filed on March 27, 2014. This
26 Information, citing to NRS 201.230, read as follows:

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1 Count 2 – Lewdness With a Child Under the Age of 14

2 Did on or between June 22, 2007 and January 21, 2014 then and there
3 wilfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act
4 upon or with the body, or any part or member thereof, a child, to-wit: HH,
5 said child being under the age of fourteen years, by rubbing and/or placing
6 ejaculate on the said HH's face, with the intent of arousing, appealing to, or
7 gratifying the lust, passions, or sexual desires of said Defendant, or said
8 child.

9 This described the offense sufficiently to put Petitioner on notice of the crime against
10 which he needed to defend. A jury found Petitioner guilty of Count 2 beyond a reasonable
11 doubt. The court filed a judgment of conviction.

12 His conviction was affirmed. Langford v. State, Docket No. 70536 (Order of
13 Affirmance, June 27, 2017)). The victim's testimony satisfied the elements of lewdness with
14 a minor under age 14, and her testimony alone sufficed to support his conviction. Affirmance,
15 Langford v. State, Docket No. 75825, filed June 28, 2019, at 6.

16 The State need never do anything again to support Petitioner's conviction, as he has
17 had all the process he is due. The Information, not the statement of facts, accused Petitioner of
18 his crime. The alleged inadequacy of a statement of facts written later is immaterial to his guilt.
19 He is not entitled to declare himself innocent based on documents written after his conviction.

20 **II. PETITIONER FAILS TO DEMONSTRATE NRS 201.230 IS**
21 **UNCONSTITUTIONAL**

22 This claim is also improperly raised in a petition to establish factual innocence as it is
23 not a bona fide claim of factual innocence, but a challenge to the validity of the statute under
24 which he was convicted. See section III below. This claim could have been raised on direct
25 appeal and is improperly raised here. Regardless, it fails on its merits.

26 Petitioner argues the trial court lacked jurisdiction to convict him as he contends the
27 statute was unconstitutional. Petition at 8. He cites Honea v. State, 136 Nev. 285, 466 P.3d
28 522 (2020), to assert an older version of NRS 200.366(1) did not establish an age at which a
child is unable to consent to sexual conduct.

The older version of NRS 200.366(1) read as follows:

1 A person who subjects another person to sexual penetration, or who forces
2 another person to make a sexual penetration on himself or herself or another,
3 or on a beast, against the will of the victim or under conditions in which the
4 perpetrator knows or should know that the victim is mentally or physically
5 incapable of resisting or understanding the nature of his or her conduct, is
6 guilty of sexual assault.

7 The legislature modified the law to add an alternative path to guilt of sexual assault in
8 NRS 200.366(1)(b):

9 Commits a sexual penetration upon a child under the age of 14 years or
10 causes a child under the age of 14 years to make a sexual penetration on
11 themselves or another, or on a beast.

12 So, a conviction under the old version, as dealt with in Honea, required a showing the
13 victim did not consent or could not consent. Defendants who sexually assaulted children under
14 fourteen years of age after the modification were subject to a strict liability based on the child's
15 age.

16 Petitioner was not convicted under any version of NRS 200.366, but rather was
17 convicted under NRS 201.230, which at the time of his crime in 2014, stated:

18 A person who willfully and lewdly commits any lewd or lascivious act, other
19 than acts constituting the crime of sexual assault, upon or with the body, or
20 any part or member thereof, of a child under the age of 14 years, with the
21 intent of arousing, appealing to, or gratifying the lust or passions or sexual
22 desires of that person or of that child, is guilty of lewdness with a child.

23 He contends that NRS 201.230 is entrapment or overbroad because an older version of
24 NRS 200.366 did not state the victim's age as an element. Petition at 9. He complains
25 ejaculating on a kid's face is a "catch 22 damned if you do and damned if you don't" situation.
26 Petition at 9. He claims it is unfair that "you can have consensual sex with a minor under 14
27 prior to 2015 and still [be] convicted of lewdness." Petition at 9.

28 As Petitioner notes, the wording of NRS 201.230 has not changed. He is not entitled to
rewrite the statute so that it suffers from the infirmities of the old version of NRS 200.366,
then point to those infirmities as a basis for relief. A little girl has never been able to consent
to having Petitioner ejaculate on her face under NRS 201.230, even if the State had to prove

1 her lack of consent for sexual intercourse under NRS 200.366 before the legislature modified
2 the statute. Petitioner satisfied the elements of NRS 201.230 because he is a person who
3 willfully committed a lewd act on his stepdaughter's face when she was under the age of
4 fourteen years for his own sexual desire. He is not entitled to relief based on a case that does
5 not deal with problems concerning the statute under which he was convicted.

6 **III. PETITIONER IS NOT FACTUALLY INNOCENT**

7 Petitioner has been convicted of rubbing and/or placing ejaculate on the face of a child
8 under the age of 14. To establish factual innocence, Petitioner is required to present new
9 evidence demonstrating that he did not in fact commit this criminal act. Petitioner has not done
10 so.

11 Petitioner's two claims, that documents written after his conviction did not charge him
12 with a crime and that a different statute did not specify a child's age so his statute should be
13 rewritten to not specify the child's age, are not claims of factual innocence. Rather, he makes
14 a strained effort to argue legal innocence. Legal innocence is not a basis for relief in a petition
15 to establish factual innocence.

16 A bona fide issue of factual innocence is newly discovered evidence that would clearly
17 establish his factual innocence. NRS 34.910. Factual innocence means the person did not
18 engage in the conduct for which he was convicted. NRS 34.920. Newly discovered evidence
19 must not have been available to the petitioner at trial, and the evidence must be material to the
20 determination of the issue of factual innocence. NRS 34.930. To be material, the evidence
21 must establish a reasonable probability of a different outcome at trial. NRS 34.940. The
22 evidence must not be based only on the recantation of a witness. NRS 34.960(2)(b)(2).

23 Since Petitioner points to no new fact that demonstrates he did not ejaculate on his
24 stepdaughter's face in the shower when she was less than fourteen years old, he fails to show
25 a bona fide issue of factual innocence.

26 Petitioner has tried his actual innocence claim before. "To the extent that Langford
27 argues that he is actually innocent, he had to show that 'it is more likely than not that no
28 reasonable juror would have convicted him in the light of the new evidence' and Langford has

,

1 identified no new evidence." Affirmance, Langford v. State, Docket No. 75825, filed June 28,
2 2019, at 6.

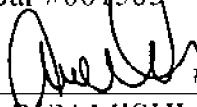
3 Petitioner remains factual, as well as legally, guilty for his lewd behavior with a minor
4 under the age of fourteen years.

5 **CONCLUSION**

6 Based on the foregoing, the State respectfully requests that this Court deny Petitioner's
7 Petition to Establish Factual Innocence.

8 DATED this 26th day of July, 2022.

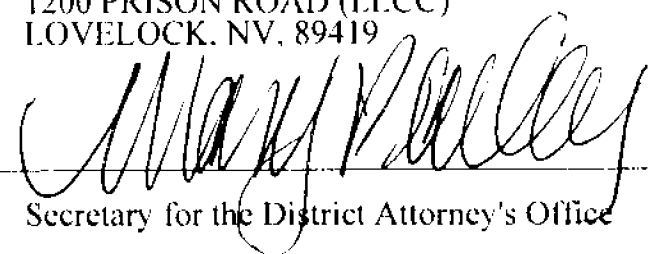
9
10 Respectfully submitted,
11 STEVEN B. WOLFSON
12 Clark County District Attorney
13 Nevada Bar #001565

14 BY  #10539 for
15 KAREN MISHLER
16 Chief Deputy District Attorney
17 Nevada Bar #013730

18 **CERTIFICATE OF MAILING**

19 I hereby certify that service of the above and foregoing was made this 26th day of
20 July, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

21 JUSTIN LANGFORD
22 BAC#1159546
23 1200 PRISON ROAD (LICC)
24 LOVELOCK, NV, 89419

25 BY 
26 Secretary for the District Attorney's Office

27
28 A784811W/KM/mlb/SVU

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN; AND THE STATE
OF NEVADA,
Respondents.

Supreme Court No. 84284
District Court Case No. A784811; ~~G206656~~

FILED
OCT 19 2022

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 20th day of July, 2022.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Rehearing Denied."

Judgment, as quoted above, entered this 22nd day of September, 2022.

A-18-784811-W
CCJA
NV Supreme Court Clerks Certificate/Judgm
5009789



IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this October 17, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN; AND THE
STATE OF NEVADA,
Respondents.

No. 84284-COA

FILED

JUL 20 2022

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

ORDER OF AFFIRMANCE

Justin Odell Langford appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Langford claims the district court erred by denying his January 28, 2022, petition. Langford filed his petition more than four years after issuance of the remittitur on direct appeal on July 24, 2017. *See Langford v. State*, No. 70536, 2017 WL 2815087 (Nev. June 27, 2017) (Order of Affirmance). Thus, Langford's petition was untimely filed. *See* NRS 34.726(1). Moreover, Langford's petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.¹ *See* NRS 34.810(1)(b)(2); NRS 34.810(2). Langford's petition was

¹*See Langford v. State*, No. 83032-COA, 2021 WL 5370074, (Nev. Ct. App. Nov. 17, 2021) (Order of Affirmance); *Langford v. State*, No. 78144-COA, 2019 WL 3812825, (Nev. Ct. App. Aug. 13, 2019) (Order of Affirmance); *Langford v. State*, Nos. 75825, 76075, 2019 WL 1440980 (Nev. Mar. 29, 2019) (Order of Affirmance).

procedurally barred absent a demonstration of good cause and actual prejudice, *see* NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3), or that he was actually innocent such that it would result in a fundamental miscarriage of justice were his claims not decided on the merits, *see Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015).


First, Langford appeared to claim that the procedural bars do not apply to his petition because the trial court lost jurisdiction over this matter when the State improperly amended the information and the trial court failed to properly administer the oath to the members of the jury. Langford also appeared to assert that the trial court lacked jurisdiction to convict him because the lewdness statute is unconstitutionally overbroad. Langford's claims did not implicate the jurisdiction of the courts. *See* Nev. Const. art. 6, § 6(1); NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the courts’ statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)). Therefore, Langford did not demonstrate that the district court erred by denying relief.

Second, Langford claimed that the State withheld evidence related to a towel in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). A valid *Brady* claim can constitute good cause and prejudice sufficient to excuse the procedural bars, *State v. Bennett*, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003) (“[P]roving that the State withheld the evidence generally establishes cause, and proving that the withheld evidence was material establishes prejudice.”). The record demonstrated that the State disclosed prior to trial information concerning the towel that it collected at the scene. Langford thus did not meet his burden to plead and prove specific facts to establish that the State actually withheld exculpatory evidence. *See id.*

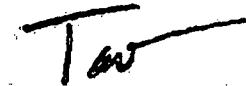
Therefore, Langford did not demonstrate that the district court erred by denying relief.

Third, Langford claimed that the procedural bars did not apply because he is actually innocent. However, Langford did not demonstrate actual innocence because he failed to show that "it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence." *Calderon v. Thompson*, 523 U.S. 538, 559 (1998) (quotation marks omitted); accord *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001), *abrogated on other grounds by Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018). Therefore, Langford did not demonstrate that the district court erred by denying relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Gibbons C.J.



Tao J.



Bulla J.

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 9
Justin Odell Langford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN; AND THE
STATE OF NEVADA,
Respondents.

No. 84284-COA

FILED


SEP 22 2022


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

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

 C.J.
Gibbons

 J.
Tao

 J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 9
Justin Odell Langford
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ODELL LANGFORD,
Appellant,
vs.
RENEE BAKER, WARDEN; AND THE STATE
OF NEVADA,
Respondents.

Supreme Court No. 84284
District Court Case No. A784811; ~~0290550~~

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: October 17, 2022

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):
Chief Judge, Eighth Judicial District Court
Justin Odell Langford
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on OCT 19 2022.

HEATHER UNGERMANN
Deputy District Court Clerk

**RECEIVED
APPEALS**

OCT 18 2022

CLERK OF THE COURT

Justin Odell Langford-[Ⓢ][1159546]
LCC,⁴⁰ 1200 Prison Road
Lovelock, Nev. 00000
In Propria persona

FILED
OCT 25 2022
Alma L. Blum
CLERK OF COURT

7

PP
OA

DISTRICT COURT
CLARK COUNTY, NEVADA

JUSTIN ODELL LANGFORD,[Ⓢ] Case No.: A-18-784811-W
PETITIONER/DEBTOR C-14-296556-1
- VS - Dept No.:

WARDEN TIM GARRETT,
(Real Party In Interest) Petition For Writ Of Habeas Corpus
Respondent. (Nev. Const. Art. 6, §6)

Now Comes, Justin Odell Langford,[Ⓢ] Secured Party, to file his Petition
For Writ Of Habeas Corpus. Pursuant to Nev. Const. Art. 6, §6. And
presented through the U.S. Supreme Court decision of Haines v.
Kerner, 404 U.S. 519, 520 (1972) (liberally Construes)
DATED this 4TH day of October, 2022.

Respectfully Submitted By:
without Prejudice UCC 1-308
Justin Odell Langford
Secured Party, Petitioner
NDOC # [1159546]

RECEIVED
OCT 18 2022
CLERK OF THE COURT

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STATEMENT OF FACTS

On Jan. 21st, 2014 Petitioner was arrested and charged with a total of 8 counts. By time Petitioner made it to his preliminary hearing he had a total of 9 Counts. After Petitioners Preliminary hearing he was bound over on 8 Counts Only. See Doc. [1] in case #C14296556.

But instead he was forced to trial on 12 illegal counts, the trial lasted a total of 9 days with 3 days being jury deliberations. It took 5 tries to get the transcripts needed. Almost two and half years before Petitioner was afforded his Transcripts. Now Petitioner has been illegally held for almost 9 years. With no one caring about justice and/or anyone's rights but the alleged victims.

GROUND 1

1. IJNRS 171.010 IS CONSTITUTIONALLY INVALID

3.

4 A) Petitioners' Right To Challenge The Jurisdiction OF The
5 Nevada Judicial District Court Overcomes All
6 Procedural Defaults And Time Limitations

7.

8 "When challenging a jurisdictional error the [Petitioner]
9 need not show cause and prejudice." *Kelly v. U.S.*, 29 F.3d
10 1107, 1113-14 (7th Cir. 1994), quoting *U.S. v. Broadwell*, Lexis 6366
11 (9th Cir. 1992). Petitioner furthers that issues regarding the
12 courts subject-matter jurisdiction cannot be waived,
13 (ref: *Freytag v. Commissioner of Int. Revenue*, 501 U.S. 868
14 (1991)), and that arguments attacking a courts' subject-
15 matter jurisdiction can neither be waived nor forfeited
16 *Class v. U.S.*, 138 S.Ct. 798 (2018). The Court has an
17 independent duty to assure itself that its jurisdiction is
18 properly had, and as a result parties can raise
19 jurisdictional defects at any time. *Kelly, Id.* at 1113-14;
20 quoting *Landreth v. Malik*, 127 Nev. 175, 199 (2011); *Barber v.*
21 *State*, 131 Nev. 1065, 1069 (2015).

22.

23 B.) The Nevada Judicial District Courts Are:

24 (A) Constitutionally Obligated To Provide Relief In Cases
25 were Constitutional Violations Are Determined To
26 Be Present, And

1 (2) Constitutionally Obligated To Adjudicate Cases
2 Regarding The Legality Of NRS Statutes;

3

4 "In Nevada, Judicial Power is derived directly from Art. 6,
5 Sec. 6 (1) of the Nevada Constitution, empowering judges with
6 the authority to act and determine justiciable controversies"
7 Landreth v. Malik, 127 Nev. 175, 183; 251 P.3d 163 (2011) LEXIS
8 17.

9 NRS 171.010 "does not limit the Constitutional power and
10 authority granted under Art. 6, Sec. 6(1)" Landreth, Id at 83.
11 Petitioner points out that "A District Judge is a Constitutionally
12 established Judicial Officer (Nev. Const. Art. 6, §§ 1, 5, and 6)
13 and the instrumentality by whom the Judicial Power is exercised
14 and through whom the District Courts function" Galloway v.
15 Truesdell, 83 Nev. 13, 422 P.2d 237, 242 (1967 Nev.) LEXIS 217,
16 and that "judicial power and the exercise of the judicial
17 function, cannot include a power or function that must be
18 derived from the basic Legislative or Executive powers"
19 ~~G~~ Galloway Id., at 243.

20 Clearly the authority of the Nev. Jud. Dist. Ct.'s to hear
21 this matter is derived from Nev. Const. Art. 6, sec. 6(1), and
22 under Nev. Const. Art. 6, § 6, § 1 this court has both the
23 authority and obligation to hear the Judicial Controversies of
24 this Petition as it specifically involves the violation of the
25 Petitioners Rights under (1) Nev. Const. Art. 1, sec. 8(5); and (2)
26 the 5th, 6th, and 14th Amend.'s to the U.S. Const., and it is

1 incumbent upon this court, as a fact of Constitutional
2 responsibility, to determine and resolve the Controversies
3 presented in this Petition, based on the merits of the claims
4 presented.

5
6 C.) How NRS 171.010 Is Constitutionally Void Ab Initio

7
8 NRS 171.010 is fundamentally and foundationally deficient,
9 lacking any statutory source within the actual law(s) of Nev.,
10 known as the Stat. of Nev., and consequently NRS 171.010 is
11 defective and cannot provide the Nev. Judicial Dist. Ct.'s with
12 jurisdictional authority over the NRS scheme "Subject-
13 matter" (NRS 201.230). See Judgment of Conviction.

14 NRS 171.010 is titled "Jurisdiction of Offense Committed in
15 State" (Exhibit 1), and ~~#~~ NRS 171.010 is repeatedly referenced by the
16 Nev. Dist. Ct.'s as the sole source of the Courts authority to
17 derive jurisdiction to sentence and punish defendant's under
18 the NRS Scheme. "The term jurisdiction means the court's
19 statutory or constitutional power to adjudicate the case."
20 *U.S. v. Cotton*, 535 U.S. 625, 630 (2002), and noting that "a
21 court may exercise judicial power only when it has a valid
22 statutory scheme and subject matter jurisdiction." *Rhode
23 Island v. Massachusetts*, 37 U.S. 657, 718 (1838). The Court must
24 be authorized to hear a crime. While Constitutional
25 jurisdiction in Nevada is directly derived from Nev. Const. Art.
26 6, §6(1), the jurisdiction over the NRS scheme (as the NRS scheme

1 is not constitutionally derived), and is not the actual statutory
2 law, is specifically and solely derived under NRS 171.010. For the
3 Nev. Jud. Dist. Ct.'s to exercise judicial power over the NRS
4 Scheme. Without the authority the courts presume to ~~act~~
5 derive from NRS 171.010, it has no authority to sentence a
6 defendant. (this is an abuse of power).

7 NRS 171.010 is completely lacking any statutory source within
8 the constitutionally compliant "Statutes of Nevada"; (1) The
9 historical section of NRS 171.010 (Exhibit 1) shows in "[]" that
10 the pre Jan. 25th 1957 statutory source laws were
11 repealed (by SB No. 2 (1957); see (Exhibit 2)); (2) The historical
12 section of NRS 171.010 (Exhibit 1) lacks any reference to the
13 "Statutes of Nevada" (statutory source laws) having been enacted,
14 as of Jan. 25th, 1957 or afterward.

15 NRS 171.010 is prima facie evidence (NRS 220.170(3)) of nothing
16 and cannot be used to cite any Constitutionally compliant
17 source. In *Krig v. State*, 125 Nev. 1054, 281 P.3d 1193 unpub. (2009)
18 WL 1491110 (Nev.) the Nev. Sup. Ct. stated: that the NRS scheme
19 is not the actual laws of Nevada, and stating that the
20 actual laws of Nevada are found in the "Statutes of
21 Nevada", and the Court further specifies that the NRS
22 scheme statutes are merely a codified version of the
23 actual "statutes of Nevada", that the Courts use the NRS
24 Scheme to cite the actual law, and that the NRS scheme is
25 nothing more than prima facie evidence of the actual "Statutes
26 of Nevada" (NRS 220.170(3))

1 There is no actual statutory source of law, to be found in
2 NRS 171.010 cannot be cited as *prima facie* evidence of any
3 actual, constitutionally compliant "Statute of Nevada", and
4 there is no constitutionally derived source wherein the courts
5 can derive jurisdiction (i.e. the authority to adjudicate) over the
6 NRS Scheme.

7 NRS 171.010 claims to be the source of authority for the District
8 Courts of Nevada, stating in clear and precise language:
9 "Every person, whether an inhabitant of this state or any
10 other state, or of a territory or district of the United States,
11 is liable to punishment by the laws of this State for a Public
12 offense committed therein, except where it is by law
13 cognizable exclusively in the Courts of the United States."

14 NRS 171.010 lacks any foundational statutory source in the actual
15 laws of Nevada, known as the "Statutes of Nevada". The Nev.
16 higher courts have repeatedly stated that the NRS Scheme is not
17 the actual law(s) of Nev., but merely "*prima facie* evidence" of
18 the actual laws as found in the "Statutes of Nevada".

19 The Nev. Sup. Ct., in responding to a challenge claiming that a
20 particular NRS statute was null and invalid because it lacked the
21 enacting clause required to be on all laws of Nev., per Nev. Const.
22 Art. 4, sec. 23 (Krig v. State, 2009 WL 1491110), the court then
23 provided would become the standard response, which would be
24 quoted verbatim in similar challenges (ref. Olson v. State, 133 Nev.
25 1058, Nev. App. Unpub. Lexis 699 (2017); Valenzuela v. State, 133 Nev.
26 1086, Nev. Unpub. Lexis 741 (2017); Peck v. State, 2018 Nev. Lexis 867;
Escamilla v. State, 133 Nev. Adv. Unpub. (2017 Nev.) Lexis 332, and
many more) stating:

1 "Krig's argument conflates the laws of Nevada with the
2 codified statutes. The Nevada Revised Statutes constitute
3 the official codified version of the Statutes of Nevada
and may be cited as prima facie evidence of the law" (Hry v.
State, 125 Nev. 1054, 281 P.3d 1193 (2009) WL 1491110 (quoting NRS 220.170(3)).

4 The Court goes on to specify, "The actual laws of Nevada are
5 contained in the Statutes of Nevada,..." (Krig, supra) (Exhibit 3).

6 * In summary, the Nev. Sup. Ct. specified that:

7 1.) The NRS Scheme is merely a codified version of the actual laws
8 of Nevada;

9 2) The actual laws of Nevada are derived extrinsically from the NRS
10 scheme, and are found in a separate source known as "Stat. of Nev."

11 3) The NRS scheme being separate from the actual laws found in the
12 Stat. of Nev.; (a) Not the actual law of Nev., and (b) is not
13 required to have Nevada's Constitutionally required enacting
14 clause.

15 4.) The NRS scheme is merely a codified source; used extrinsically from
16 the actual laws, as found in the Stat. of Nev., and is for the Courts
17 to use as prima facie evidence of those actual Stat. of Nev., in
18 order to cite the extrinsic source of law.

19 Unlike in the Nev. higher courts determinations referenced supra,
20 wherein the specified NRS statute being challenged did have an
21 actual foundational source of law within the Stat. of Nev.,

22 NRS 171.010 lacks any statutory source within the Stat. of
23 Nev., thusly the Dist. Ct. cannot use NRS 171.010 to cite any
24 actual law from extrinsic source of ~~Nev~~ the Stat. of Nev.

25 NRS 171.010 is then prima facie evidence of nothing, and since
26 per the numerous statements by Nev. higher Courts, NRS 171.010

27

1 Cannot be cited as evidence of an extrinsic source that does not
2 exist.

3 All pre 1957 source statutes for NRS 171.010 have been repealed:

4 SB2(1957) States;

5 "AN Act to revise the laws and statutes of the State of Nevada
6 of a general or public nature; to adopt and enact such
7 revised laws and statutes, to be known as the Nevada Revised
8 ~~Laws~~ Statutes, as the law of the State of Nevada; to repeal
9 all prior laws and Statutes of a general, public and permanent
10 nature, providing penalties and other matters relating
11 thereto." (Emphasis in Original)

12 Sec. 3 of SB2(1957) "Repeal of Prior laws" further states: "Except
13 as provided in section 5 of this act and unless expressly continued
14 by the specific provisions of the Nevada Revised Statutes, all laws
15 and Statutes of the State of Nevada of a general, public and
16 permanent nature enacted prior to January 21, 1957, hereby are
17 repealed." (Emphasis in original).

18 The laws of a general, public and permanent nature, as specifically
19 listed in the historical section of NRS 171.010 (Exhibit 1) have been repealed;
20 The historical section of NRS 171.010 (Exhibit 1) shows only the
21 following "[1911 Cr. Proc. 358; RL 36908; NCL 310705]".

22 The statute revision commission/Legislative Counsel Bureau, use
23 the common editing notation device of brackets "[]" to
24 indicate that the wording within the brackets was eliminated.
25 The use of brackets within the history section of NRS 171.010
26 shows the historical source laws, within the brackets, has been
repealed. This is in agreement with SB2(1957),

"1911 Cr. Proc. 358", as listed in the historical sec. of NRS 171.010, as
interpreted according to the "Legislative Counsel's Preface"; "Legislative

1 History"; 9., is the Criminal Practice Act of 1911, Sec. 58
2 "RL §6908", as listed in the historical section of NRS 171.010, as
3 interpreted according to the "Legislative Councils Preface"; "Legislative History";
4 7., is the Revised Laws of Nevada (1912) §6908
5 "NCL §10705", as listed in the historical section of NRS 171.010, as interpreted
6 according to the "Legislative Councils Preface"; "Legislative History"; 1.;
7 is the Nevada compiled laws (1929) §20705

8 NRS 171.010, in its historical sec., does not show any statutory
9 source, specifically the Stat. of Nev. (or any other stat.'s) from 1957
10 onward that it can point to as the statutory source law. Normally,
11 all NRS statutes in the historical section will indicate the laws of
12 the NRS being sources to the Stat. of Nev. by placing the source
13 Stat. in parenthesis "()", as can be seen in NRS's 220.120, 220.170.
14 (Exhibit)

15 NRS 171.010 is completely deficient of any, past SB2(1957), Stat.
16 source, as would appear in parenthesis in its historical section. NRS
17 171.010 cannot establish a Constitutional connection to either the
18 Stat. of Nev. or the Petitioner, therefore as NRS 171.010 stands it is
19 Unconstitutional (according to the evidence presented supra), Thus the
20 Dist. Ct. Cannot derive subject-matter jurisdiction under NRS
21 171.010

22
23
24

II. CONCLUSION AND RELIEF

25 The Nev. Sup. Ct. has determined that, firstly, the NRS
26 scheme does not comprise the actual laws of Nevada because

1 the actual laws of Nev., known as the Stat. of Nev., are located
2 extrinsically from the NRS scheme, and secondly the NRS scheme,
3 being derived seperately from the actual Stat. of Nev., is merely prima
4 facie evidence of the Stat. of Nev., and despite having no real
5 connection to the actual Stat. of Nev., the NRS scheme is used to cite
6 the actual law(?), but as the Petitioner has shown, there is no
7 statutory source for NRS 171.010 that can be found in the actual
8 statutes of Nevada. NRS 171.010 is prima facie evidence of nothing,
9 and cites nothing, and as per the Nev. Sup Ct., the NRS is not the
10 law.

11 Thus NRS 171.010 is unconstitutional, as it has no connection to law,
12 the Petitioner or Nevada's Constitutionally mandated legislative process,
13 and as a result the Dist. Ct.'s of Nev. can't derive authority from
14 NRS 171.010 for jurisdiction over the subject-matter of the NRS
15 scheme to sentence the Petitioner under NRS 201.230,

16 As a result the Petitioner has been imprisoned in violation
17 of his rights under the Const. of Nev. Art. 1, 38(s) and the 5th,
18 6th, and 14th Amend.'s of the U.S. Const., and he must be released
19 from custody immediately, and including the removal of any/all
20 restraints, confinements, or legal infirmities currently placed
21 upon him as a result of this illegal sentence, and his sentence
22 must be vacated. Also letters from Nev. Sup. Ct. Law Library support
23 these facts presented. see (Exhibit 4)

24

25

26

CLAIM 2

I. The NRS Scheme is Unconstitutional as the NRS scheme is not derived from Nevada's constitutionally mandated law-making source, the Nevada Legislature (Nev. Const. Art. 4, §1), and because the NRS scheme lacks a connection to Nevada's Constitution, the NRS scheme cannot establish that it is a binding source of law, under Nevada's Constitution, and consequently cannot establish subject-matter jurisdiction for the Dist. Ct.'s of Nev. to use to sentence the Petitioner under NRS's 201-230 and 171-010.

A. Petitioners' Right To Challenge The Jurisdiction Of The Nevada Judicial District Court Overcomes All Procedural Defaults And Time Limitations

"When challenging a jurisdictional error the [Petitioner] need not show cause and prejudice..." *Kelly v. U.S.*, 29 F.3d 1107, 1113-14 (7th Cir. 1994), quoting *U.S. v. Broadwell*, Lexis 6366 (9th Cir. 1992). Petitioner furthers that issues regarding the courts' subject-matter jurisdiction cannot be waived. (ref; *Freytag v. Commissioner of Int. Revenue*, 501 U.S. 865 (1991)), and that arguments attacking a courts' subject-matter jurisdiction can neither be waived nor forfeited. *Class v. U.S.*, 138 S. Ct. 798 (2018). The Court has an independent duty to assure itself that its jurisdiction is

1 properly had, and as a result parties can raise
2 jurisdictional defects at any time. Kelly, Id. at 1113-14;
3 quoting Landreth v. Malik, 127 Nev. 175, 179 (2011); Barber v.
4 State, 131 Nev. 1065, 1069 (2015).

5

6 B.) The Nevada Judicial District Courts Are;

7 (1.) Constitutionally Obligated To Provide Relief In Cases
8 where Constitutional Violations Are Determined To
9 Be Present, And

10 (2.) Constitutionally Obligated To Adjudicate Cases
11 Regarding The Legality Of NVHS Statutes:

12

13 "In Nevada, Judicial Power is derived directly from Art. 6,
14 sec. 6(1) of the Nevada Constitution, empowering judges with
15 the authority to act and determine justiciable
16 Controversies" Landreth v. Malik, 127 Nev. 175, 183; 251 P.3d
17 1163 (2011) Lexis 17.

18 The Nev. Jud. Dist. Ct's have the authority to hear this
19 matter, and is derived from Nev. Const. Art. 6, Sec. 6(1),
20 and under Nev. Const. Art. 6, § 6, § 1 this court has both the
21 authority and obligation to hear the Judicial Controversies
22 of this Petition as it specifically involves the violation
23 of the Petitioners Rights under (1) Nev. Const. Art. 1, § 8(5);
24 and (2) the 5TH, 6TH, 14TH Amend's to the U.S. Const., and it is
25 incumbent upon this court, as a fact of Constitutional responsibility,
26 to determine and resolve the Controversies presented in this

1 Petition, based on the merits of the claims presented.

2

* 3 C.) Courts May Revisit A Prior Ruling.

4

5 The Federal Courts have adopted three specific
6 exceptions to law of the case doctrine, enumerated as:

7 (1) Subsequent proceeding produce substantially new or
8 different evidence; (2) there has been an intervening change
9 in controlling law, or (3) the prior decision was clearly
10 erroneous and would result in manifest injustice if enforced.

11 Petitioner will utilize exceptions 1 and 3 for the
12 refiling of this issue.

13

14 D.) NRS 220.120 And 220.170 Provide No Help to the
15 State or the Courts Due To Being Void Ab
16 Initio

17

18 NRS 220.120 and 220.170 each lack any foundational
19 statutory source of authority, and consequently neither
20 can serve as claimed in *Krig v. State*.

21 The historical sections of both NRS's show that all pre
22 1957 statutory source laws were repealed by SB2 (1957),
23 Exhibit 2. The historical section of NRS 220.170 shows it was
24 enacted by "Amendment" in 1957, Exhibit 5. The historical
25 section of NRS 220.120 shows it was also enacted by
26 "Amendment" in ~~1957~~ 1963, Exhibit 6

1 Per Nev. Const. Art. 4, § 317 which states in part:

2 "no law shall be revised or amended by
3 reference to its title only; but in such case, the
4 act revised or section amended, shall be re-enacted
5 and published at length." (Emphasis in Original)

6 "Acts of the legislature which attempt to revive a statute
7 formerly nullified are not to be confused or confounded
8 with acts attempting to amend or revise. An amendment is an
9 alteration effecting a change in the draft, or form, or
10 substance of law already enacted, or of a bill proposed for
11 enactment." *Maclean v. Brodigan*, 41 Nev. 468, 172 ~~P.375~~, 1918
12 Nev. Lexis 15. "Revision in a legislative sense can only apply
13 to a measure, bill, or law then having existence, life, and
14 force, and cannot, in the very nature of things, apply to a
15 nullified or repealed act. The term 'revive', as applied to
16 legislative proceedings, signifies the reconference of
17 validity, force, and effect." *Maclean v. Brodigan, Id.*

18 NRS's 220.170 and 220.120 have never been enacted:

19 (i) The historical section of NRS 220.170 (Exhibit 5) shows
20 "[13:304:1951; A 1953, 388] - (NRS A 1957, 5; 1963, 1024; 1967, 35;
21 1989, 1167; 2003, 328)". The pre January 25th, 1957 enactment of
22 the NRS scheme by Senate Bill No. 2 (1957) (Exhibit 2) "Source"
23 statutes for NRS ~~220~~ 220.170, which were eliminated by
24 SB2 (1957), shown in brackets "[]" indicating that the source
25 statutes, shown within the brackets, have been repealed
26 and are null and void.

1 The statutory source laws of NRS 220.170, shown in brackets,
2 therefore have been eliminated by Senate Bill No. 2 (1957) are;
3 "13:304:1951", which indicates that NRS 220.170 was derived
4 from "section 13, chapter 304, Statutes of Nevada 1951".
5 "A 1953, 388", which indicates that "section 13, chapter 304,
6 Statutes of Nevada 1951 was subsequently amended by Statutes
7 of Nevada 1953 at page 388". Very Important Note - The
8 statute revision commission uses the "A" (above) to
9 indicate "amended".

10 With the enactment of the NRS scheme by Senate Bill
11 No. 2 (1957), the Stat. revision commission indicated what the
12 NRS history is, by placing the relative historical "NRS" in
13 parenthesis "()". The use of parenthesis to show the NRS
14 scheme enacted in 1957. Thus "NRS A 1957, 5" translates as
15 NRS 220.170 was amended by Statutes of Nevada 1957, at
16 page 5.

17 The historical section of NRS 220.120 (Exhibit 6) shows:
18 "[3:304:1951; A 1953, 388] - (NRS A 1963, 1022; 1965, 1459; 1989, 248;
19 2003, 327, 2003)". The Statutory source laws of NRS 220.120,
20 shown in brackets were eliminated by SB2 (1957) are
21 "3:304:1951", translates to NRS 220.120 was derived from "
22 section 3, chapter 304, Statutes of Nevada 1951". "A 1953, 388"
23 translates to "section 3, chapter 304, Statutes of Nevada 1951
24 was subsequently amended by Nevada Statutes of Nevada 1953
25 at page 388". Thus "NRS A 1963, 1022" translates to NRS 220.120
26 was amended by Statutes of Nevada 1963 at page 1022.

1 No previously repealed (therefore Nullified and Dead)
2 Statute of Nevada can be resurrected and returned to
3 life by Legislative Act or Amendment wherein the previously
4 repealed and dead statute is livened by mere reference to
5 its title only; see pg. , lines 1-26. Justice McCarren, after
6 examining a Florida Supreme Court case (State ex rel. Attorney
7 General v. Green, 36 Fla. 154, 18 So. 334) "under a constitutional
8 provision identical to ours", provided, "The views expressed
9 and reasoning followed by the Court there is illuminative of the
10 subject. There the Court drew the distinction between
11 Constitutional provisions prohibiting revival of statutes and
12 those prohibiting revision of statutes."

13 Senate Bill No. 3 (1957), approved January 25th 1957, amended
14 a non-existent NRS 220.170. SB2(1957) repealed all prior laws
15 of a general, public, and permanent nature prior to January
16 25th, 1957, Exhibit 2, and this is shown in the history section of
17 NRS 220.170 and 220.126. Senate Bill No. 3 (1957), on Jan. 25th,
18 1957, claims to have amended NRS 220.170; 1. in its title it states,
19 "An Act to amend... NRS sections ... 220.170 ..."; 2. in its body,
20 Section 5. states "NRS 220.170 is hereby amended to read as
21 follows:".

22 Furthermore NRS 220.120 and 220.170 must fail according to
23 the Higher Courts as the "Statutes of Nevada" contain the
24 laws of the State, see "1957 Statutes of Nevada, Page 787",
25 which contains Assembly Concurrent Resolution No. 1, which
26 States at paragraph 1 "Whereas, The 48th session of the

1 legislature of the State of Nevada, by unanimous vote of
2 the members thereof, has enacted into law the Nevada
3 Revised Statutes as the law of the State of Nevada to
4 supersede all prior laws of a general, public and permanent
5 nature; and", Exhibit 7. Which would coincide ^{with} what
6 Senate bill 2 1957 says at "1957 Statutes of Nevada, Page
7 1" "Section 1. Enactment of Nevada Revised Statutes. The
8 Nevada Revised Statutes, ~~adopted~~ being the Statute laws
9 set forth after section 9. of this act, are hereby
10 adopted and enacted as law of the State of Nevada",
11 which also coincided with "1957 Statutes of Nevada,
12 Page 2 (CHAPTER 2, SB2)" at "Sec. 2. Designation and
13 Citation. The Nevada Revised Statutes adopted and
14 enacted in to law by this act, ...", both at Exhibit 8.

15 So how does anyone comport to say that the "Statutes
16 of Nevada" are the law, when the Nevada Senate and
17 Assembly have both said that the "Nevada Revised
18 Statutes" (NRS) are the law. Heck look at "1957 Statutes
19 of Nevada, Page 4 (CHAPTER 2, SB2)"; and "1957 Statutes of
20 Nevada, Page 5 (CHAPTER 3, SB3)", this shows that the
21 "Statutes of Nevada" are actually the Senate bills and
22 the Assembly bills not laws, Exhibit 8. So Fact is established
23 that The "NRS" are the "LAW" and the "Statutes of Nevada"
24 Are The "BILLS" Lets discuss the enactment clause
25 issue. Thus NRS's 220.120 and 220.170 utterly fail and are void
26 Ab Initio.

1 But as the Court Can See from all Copies of the "Statutes of
2 Nevada", NRS 201.230 Does not have an enactment Clause on
3 it. But as Discussed supra the "Statutes of Nevada" are not the
4 law, they are the Bills as Evidenced by Exhibit 9, So the NRS
5 itself must have it and no copy ever produced has it. See
6 Historical Section for NRS 201.230 at Exhibit 10, which shows
7 "[1911 C&P V2; added 1925, 17; A 1947, 24; 1943 NVCL §10143]-
8 (NRS A 1961, 92; 1967, 477; 1973, 96, 255, 1706; 1977, 867, 1632;
9 1979, 1430; 1983, 207; 1991, 1009; 1995, 1200; 1997, 1722, 2502, 3190)".
10 And at each location NRS ~~200~~.230 does not have an enactment
11 clause, all Locations marked with "*" on the page.

12 The enacting clause must be readily visible on the face of
13 the statute so that citizens don't have to search through the
14 legislative journals or other records or books to see if one
15 exists. Thus a statute book without the enacting clause is not
16 a valid publication of laws. In regards to the validity of a law
17 that was found in their statute books without enacting clause.

18 See Nevada v. Rogers, 10 Nev. 120, 261. (1875). Anotherwards if it
19 is not with the statute at the page listed the law is invalid.

20 PETITIONERS CLAIMS REGARDING THE NRS'S
21 ARE SUBSTANTIATED BY THE "The Legal Division of the
22 LCB", See Letter at Exhibit 11, This Exhibit shows the
23 Petitioner has been right the whole time. Also read the
24 Foot note on Page 1. So if they show I'm right and been
25 right, someones been wrong this whole time, its time someone
26 does whats legally right.

1 But the constitutions also regulate the form and style in which laws are
2 to be enacted to make them laws of the State, see sec. D supra, the form
3 and style are regulated as essential parts of the law and thus must be
4 included at all times with the law to make it a valid law. Laws or Statutes
5 traditionally have three (3) main parts: (1) the Title, (2) the enacting clause, and
6 (3) the body.

7 We will examine the enacting clause as this is the main item that
8 directly relates to authority of law. An enacting clause is that part of Law,
9 (see pg. line to pg. line "As to what the law is in Nev.", which
10 usually comes after the title and before the body of the law. The following
11 shows the manner in which this provision is prescribed in Nev. Const.
12 Art. 4, §23: "The enacting clause of every law shall be as follows: "The
13 People of the State of Nevada represented in senate and Assembly, do enact
14 as follows,"

15 The enacting clause gives a statute its "Constitutional authenticity",
16 which makes its use essential since the Constitution is the source of the
17 legislature's authority for enacting laws, A law can't be regarded as coming
18 from a Constitutionally authorized source if it does not have an enacting
19 clause. "The enacting clause is a short formal statement, appearing before
20 the title, indicating that all which follows is to become law, and giving
21 authority by which the law is made. There is no excuse for not using it."

22 Harvey Walker, The Legislative Process, N.Y. Ronald Press Co. (1948), p.346.

23 "The enacting clause is the section of a bill or statute which establishes the
24 whole document as law." *Pearce v. Vitum*, 61 N.E. 1116, 1117, 193 Ill. 192 (1901).

25 "The enacting part of a statute is that which declares its enactment and
26 identifies it as an act of legislation." *State v. Riley*, 95 RH 1005, 1006, 85 N.J. Law

1 104(1915)

2 Since the Legislature, and not any other body or agency, is given certain law
3 making authority, and enacting clause is necessary to show that the law in
4 question comes from that duly assembled legislature. If any law is to
5 have authority behind it, it must have an enacting clause preceding, as
6 is required by Constitutional and Fundamental Law.

7 it being mandatory, that such provision must be strictly followed or else
8 the resulting act or law is unconstitutional and invalid. The great weight
9 of authority has deemed them to be mandatory. In speaking on the
10 mandatory character of an enacting clause provision, one legal text book
11 states:

12 "The view that this provision is merely directory seems to
13 conflict with that fundamental principle of ~~Con~~ Constitutional
14 Construction that whatever is prohibited by the Constitution,
15 if in fact done, is ineffectual. And the vast preponderance of
16 authority holds such provisions to be mandatory and that a
17 failure to comply with them renders a statute void. "Ruling
18 Case Law, vol. 25, "Statutes", 884, p. 836; see also Nevada v.
19 Rogers, 10 Nev. 250, 255-56 (1875); approved in Caine v. Robbins,
20 1131 P.2d 516, 518, 61 Nev. 416 (1942).

21 "These provisions relating to the mode of enacting laws have been repeatedly
22 held to be mandatory, and that any legislation in disregard thereof is
23 unconstitutional and void." State v. Burlington & M. B. R. Co., 84 N.W. 254, 255, 66
24 Neb. 741 (1906); Nevada v. Rogers, 10 Nev. 250, 255-56 (1875). When we read the
25 provisions which require an enacting clause, they say that "all laws shall...", or
26 "the laws of this state shall...", (see pg line to pg line "As to what

1 the law is in Nev."), they don't say "all bills shall..." ("Statutes of Nevada" equals
2 'Bills'). The terms "bills" and "law" are clearly distinguished from one another
3 in most constitutions in prescribing the procedure of the legislative process
4 such as Nev. Const. Art. 4 in full.

5 Since the constitution requires "All laws" to have an enacting clause, it
6 makes it a requirement on published laws as well as on bills in the legislature. "If"
7 the Constitution said "all bills" shall have an enacting clause, an enacting
8 clause of a law is to be "on the face". To be on its face means to be in the
9 same plain of view, see *Cunningham v. Great Southern Life Ins. Co.*, 66 S.W.
10 2nd 765, 773 (Tex. Civ. App.)

11 The manner in which the law came to the Court was by the way it was
12 found in the statute book, cited by the Court as "Stat. 1875, 66" and that
13 is how they judge the validity of the law. Since they saw that the act,
14 as it was printed in the statute book, had an insufficient enacting
15 clause on its face, it was deemed to be "not a law". It is only by
16 inspecting the publicly printed statute book that the people can
17 determine the source, authority & authenticity of the law are expected
18 to follow. Now look at Exhibit 9 which contains the following: (1) "1967
19 Statutes of Nevada, Page 477 (CHAPTER 211, AB 71); (2) "1973 Statutes of
20 Nevada, Page 96 (CHAPTER 69, SB 199)"; (3) "1973 Statutes of Nevada, Page 255
21 (CHAPTER 195, SB 193)"; (4) "1973 Statutes of Nevada, Page 256 (CHAPTER 195, SB
22 193); (5) "1977 Statutes of Nevada, Page 867 (CHAPTER 430, SB 116)"; (6) "1977
23 Statutes of Nevada, Page 1632 (CHAPTER 598, SB 412); (7) "1977 Statutes of
24 Nevada, Page 1633 (CHAPTER 598, SB 412); (8) "1979 Statutes of Nevada, Page
25 1430 (CHAPTER 655, SB 9)"; (9) "1983 Statutes of Nevada, Page 207 (CHAPTER 55, SB 113)
26 "; (10) "1991 Statutes of Nevada, Page 1009 (CHAPTER 389, AB 429)"; (11) "1995 Statutes

1 of Nevada, Page 1200 (CHAPTER 443, SB 416); (12) 1997 Statutes of Nevada, Page 1722
2 (CHAPTER 455, AB 280); (13) 1997 Statutes of Nevada, Page 2502 (CHAPTER 524,
3 SB 5); (14) 1997 Statutes of Nevada, Page 3196 (CHAPTER 641, SB 328); (15) 1999
4 Statutes of Nevada, Page 471 (CHAPTER 105, SB 453); (16) 2003 Statutes of
5 Nevada, Page 2826 (CHAPTER 461, AB 78); (17) 2003 Statutes of Nevada, Page
6 2877 (CHAPTER 507, SB 341); (18) 2015 Statutes of Nevada, Page 2241 (CHAPTER
7 399, AB 49).

8

9 F) NRS 201.230 Provides No Jurisdiction To The Court As It
10 Is Void Ab Initio

11

12 NRS 201.230 lacks any foundational statutory source. The Historical source
13 sec. of NRS 201.230 shows that all pre 1957 statutory source laws were
14 repealed by SB 2 (1957), Exhibit 2. The Historical Sec. of NRS 201.230 shows it
15 was enacted by "Amendment" in 1961, Exhibit 10. Per Nev. Const. Art. 4, § 17 which
16 states in part:

17 "... no law shall be revised or amended by reference to its
18 title only; but in such case, the act revised or section amended,
19 shall be re-enacted and published at length." (Emphasis in Original).
20 "Acts of the legislature which attempt to revive a statute formerly
21 nullified are not to be confused or confounded with acts attempting to amend
22 or revise. An amendment is an alteration effecting a change in the draft or
23 form, or substance of law already enacted, or of a bill proposed for
24 enactment." *Maclean v. Brodigan*, 41 Nev. 468, 172 P. 375, 1918 Nev. Lexis 15.
25 "Revision in a legislative sense can only apply to a measure, bill, or law
26 then having existing existence, life, and force, and cannot, in the very nature

1 of things, apply to a nullified or repealed act. The term 'revive', as
2 applied to legislative proceedings, signifies the reconference of
3 validity, force, and effect" *Maclean v. Brodigan, Id.*

4 NRS 201.230 was never been enacted; The Historical Sec. of NRS
5 201.230 (Exhibit 10) shows "[1911 C&P 1/2; added 1925, 17; A 1947, 24; 1943
6 NCL §10143]-(NRS A 1961, 92; 1967, 477; 1973, 96, 255, 1406; 1977, 867, 1832;
7 1979, 1430; 1983, 207; 1991, 1069; 1995, 1200; 1997, 1722, 2502, 3190)". The pre-Jan.
8 25th, 1957 enactment of the NRS scheme by SB2 (1957) (Exhibit 2) "Source"
9 Statutes for NRS 201.230, which were eliminated by SB2 (1957), shown in
10 brackets "[]" indicating that the source statutes, shown within the brackets,
11 have been repealed and are null and void.

12 The statutory source laws of NRS 201.230, shown in brackets, therefore
13 have been eliminated by SB2 (1957) are: "1911 C&P 1/2"; "added 1925, 17"; "A
14 1947, 24"; "1943 NCL §10143". Very Important Note - The statute revision
15 commission uses "A" (above) to indicate "Amended"

16 With the enactment of the NRS scheme by Senate Bill No. 2 (1957), the Stat.
17 revision commission indicated what the NRS history is, by placing the relative
18 historical "NRS" in parenthesis "[]". The use of parenthesis to show the
19 NRS scheme enacted in 1957. Thus "NRS A 1961, 92" translates as NRS 201.230
20 was "amended by statutes of Nevada 1961, at page 92".

21 No previously repealed (therefore Nullified/Dead) statutes of Nevada
22 can be revived/resurrected to life repealed and dead statute is livened
23 by mere reference to its title only; sec pg , lines 1-26. Justice
24 McCarren after examining a Florida Supreme Court case (*State ex rel.*
25 *Attorney General v. Green*, 36 Fla. 154, 18 So. 334) "Under a constitutional
26 provision identical to ours", provided, "The views expressed and reasoning

1 followed by the court drew the distinction between Constitutional provisions
2 prohibiting revival of statutes and those prohibiting revision of statutes."
3 Therefore NRS 201.230 must fail and Petitioners Conviction vacated and
4 released.

5

6 G) The Entire NRS Scheme Is Unconstitutional

7

8 The following shows how the NRS scheme is repugnant to plain, clear, and
9 precise language of Nev's Constitutional requirements:

10 1) The NRS scheme can't be a Constitutional statutory source as it is
11 incongruous with Nev's Const. Art. 4, §1 "Legislative power vested in senate
12 and assembly", which provides in clear language:

13 "The Legislative authority of this State shall be vested in a senate
14 and Assembly which shall be designated 'The Legislature of the
15 State of Nevada' and the sessions of such Legislature shall be
16 held at the seat of government of the State."

17 * Additionally, of note per the above provision, it is also specified in Nev.
18 Const, Art. 4, §3, §34 that the senate and Assembly are to be elected
19 officials, which ensures that the legislators will be accountable to the People
20 of Nevada for the laws they create.

21 The NRS scheme is the product/creation of a non-elected commission, body,
22 or agency: (i) Senate Bill No. 182 (1951) delegated the legislative power(s), duties, and
23 functions to a "Statute revision commission"; (ii) Senate Bill No. 24 (1963)
24 abolished the "statute Revision Commission" and transferred its legislative
25 powers, duties, and functions to the "Legislative Counsel", doing business as
26 the "Legislative Counsel Bureau" which is confirmed in its "Preface".

1 The U.S. Sup. Ct. has specified that the attempts of a constitutionally
2 derived legislative body (such as Nev's legislature consisting of Senate and
3 assembly), as its authority to legislate (to create or amend the laws) are
4 derived from that Const., to presume to have the authority to delegate said
5 legislative powers to a non-elected body or agency (such as the Legislative Counsel)
6 is a violation of the Const., stating, "by any measure handing off regulatory
7 power to a private entity is legislative delegation in its most obnoxious form"
8 Dept. of Transp. v. Assn. of Am. RR, 135 S.Ct. 1225, 1228 (2015)

9 The non-elected body or (private) agency known as the "Legislative Counsel", in
10 the creation of the NRS scheme, has by their own admission amended, without
11 the necessary constitutionally derived authority which resides solely in the
12 electorate of Senate and Assembly (Nev. Const. Art. 4, §1), what was originally
13 the (actual) "Statutes of Nevada" (which were passed and enacted by Nev.'s
14 Senate and Assembly) into a compilation of revised statutes which differ in mode,
15 style, and wording from the original (actual) Statutes of Nevada:
16 Revising the statutes, on the other hand, involves these additional and
17 distinguishing operations: (1) The elimination of unnecessary words and to
18 the improvement of the grammatical structure and physical form of sections."
19 "... to clarify, simplify, classify, and generally make more accessible
20 understandable and usable..."
21 "3. Sentences within a section, and words within a sentence, were rearranged,
22 and tabulations were employed,"
23 "4. ... words and phrases, ... were replaced by more explicit words..." see
24 "Legislative Counsel's Preface"; "History and Objectives of the revision"
25 "2. Whole sections or parts of sections relating to the same subject were
26 sometimes combined."

22 The legislative Counsel received their authority to amend the actual laws of the
23 Constitutionally derived "Statutes of Nevada" from an act passed outside and
24 apart from Nev's Const., known as Senate Bill No. 192 (1951), wherein it is
25 officially stated the intent to delegate the legislative authority of the Nev.
26 Senate and Assembly to a non-elected commission,

1 The Nev. Sup. Ct. has provided multiple opinions that show the legislative act
2 that officially delegated the legislative power of the senate and assembly to
3 a non-elected commission, as well as the legislative powers that were exercised
4 by said commission, were effectively outside of the parameters of Nev.'s
5 Const. "Legislative power" was defined by Nev. Sup. Ct. as "the power of law-
6 making representative bodies to frame and enact laws, and to amend or
7 repeal them" (*Galloway v. Towsdell*, 83 Nev. 13, 422 P.2d 237, 1967 Nev. Lexis 217 (Nev. 1967))
8 (Emphasis added).

9 The actions of the Legislative Counsel clearly show that this non-elected
10 legislative body did effectively "amend" the actual law, as found in the statutes
11 of Nevada, in order to create the NRS scheme, and clearly this non-elected body
12 or agency is not representative of the People of Nevada.

13 The Nev. Sup. Ct. has provided that, "[i]t is well settled by the courts that
14 the legislature, in absence of special authorization in the Constitution, is
15 without power to abolish a constitutional office or to change, alter, or modify
16 its constitutional powers and functions." *King v. Bd. of Rghts*, 65 Nev. 533,
17 200 P.2d 221, 224, 1948 Nev. Lexis 72, Justice Badt quoting *People v. Bollam*, 182
18 Ill. 528, 54 N.E. 1032; ref. *Cooley's Const. Lim.*, 6th Ed. pp. 78-79 (Emphasis added),
19 obviously Nev. Legislature can't modify or alter its own constitutionally
20 established power/functions of legislating. Justice Badt furthered in *King*
21 that "[i]t is undoubtedly the duty of courts to uphold statutes passed by
22 the legislature, unless their constitutionality appears, in which case it is
23 equally their duty to declare them null," Justice Badt quoting *Stare v.*
24 *Arrington*, 18 Nev. 412, 4 P. 735, 737; *King v. Bd. of Rghts*, supra.

25 The NRS scheme can't be a constitutional statutory source as it is
26 incongruous with Nev.'s Const. Art. 3, § 2 and Art. 6, § 11. Nev. Const. Art. 6, § 11

1 also in clear and plain language states;

2 "The justices of the Supreme Court, the judges of the court of Appeals and
3 the district judges are ineligible to any office, other than a judicial
4 office, during the term for which they have been elected or appointed.
5 All elections or appointments of any such judges by the people, legislature
6 or otherwise during said period to any office other than judicial are void."

7 Senate Bill No. 182 (1951) clearly violated the provisions specified in Nev's
8 Const, Art. 3, §10, Art. 6, §11. The three(3) sitting Nev. sup. Ct. Justices;
9 Milton B. Badt; Edgar Eather; and Charles M. Merrill are specifically
10 credited with being the official "Statute Revision Commission" on the cover
11 page of the "Nevada Revised Statutes" (1957) publishing.

12 Both Senate Bill No. 188 (1953) and Senate Bill No. 248 (1955) specify that the
13 three(3) sitting Nev. Sup. Ct. Justices are to receive a separate
14 financial annual salary for their work in their capacity of the Statute
15 Revision Commission. The Nev. Sup. Ct. has held that the "Seperation of
16 Powers" doctrine is the most important foundation of the constitution for
17 preserving and protecting liberty by preventing the accumulation of power
18 in any one branch of government. Secretary of State v. Nev. State legislature,
19 120 Nev. 456, 466 (2006). And that "All departments must be constantly alert to
20 prevent such prohibited [seperation of powers] encroachment lest our
21 fundamental system of government division of powers be eroded. To permit
22 even one seemingly harmless prohibited encroachment and adopt an
23 indifferent attitude could lead to very destructive results."
24 Galloway v. Truesdell, 83 Nev. 13, 22 (1967) (Emphasis added.).

25 Petitioner request that this court follow the ruling in Galloway v. Truesdell
26 (above) noting that the clear violations of Nev. Const, Art. 3, §1, and Art. 6, §11, as
specified above that sitting Nev. Sup. Ct. Justices served as salaried
members of a "Commission to revise the Statutes of Nevada", clearly the NRS

1 provisions of at least 8,000 acts previously passed by Nev.'s
2 Legislature,
3 Petitioner notes that the subject-matter of the NRS scheme being
4 enacted under the title of Senate Bill No. 2 (1957), "An Act to revise the
5 laws and statutes of Nevada of a general or public nature; to adopt
6 and enact such revised laws and statutes to be known as the Nevada
7 Revised Statutes, as the law of Nevada; to repeal all prior laws
8 and statutes of a general, public and permanent nature;
9 providing penalties; and other matters relating thereto," included
10 every conceivable subject-matter of NRS 1.010 to 710,596, which
11 included: homicide, bodily injury, mayhem, kidnapping, sexual
12 assault, sexual seduction, robbery, battery, attempted murder,
13 involuntary servitude, trafficking of persons, prostitution,
14 battery, neglect, child abuse, libel, etc., and including non-criminal
15 law subjects such as taxes, drivers licensing, etc., thusly the
16 act known as Senate Bill No. 2 (1957) clearly was in violation
17 of Nev. Const. Art. 4, § 17, as it embraced every possible subject
18 matter of the entire NRS Scheme under a single title, and
19 these NRS statutes were foreign to the subject of the acts
20 title. Therefore SB 2 (1957) must be declared as void (by this
21 Court) and the entire NRS Scheme it allegedly enacted
22 must be declared as void.

23
24 A) Legislative Process For Senate Bill No. 2 (1957)
25 Is not Complete
26

1 Petitioner Points this court to "1957 Statutes of Nevada,
2 Page 787" which contains Senate Concurrent Resolution
3 No. 1 and Assembly Concurrent Resolution, this is attached
4 as Exhibit 7. Of importance in this matter is the Senate
5 Concurrent Resolution No. 1 wherein it states "WHEREAS,
6 The provisions of sec. 8 of chapter 3, Statutes of Nevada
7 1949, as amended by chapter 385, Statutes of Nevada 1955,
8 provide that the official engrossed copy of a bill may by
9 resolution be used as the enrolled bill; now therefore, be it
10 Resolved by the Senate of the State of Nevada, the
11 Assembly Concurring, That the Official engrossed copy
12 of Senate Bill No. 2 shall be used as the enrolled bill as
13 provided by law."

14 There are two (2) issues with this ~~bill~~ Resolution
15 and they are: (1) They used "Sec. 8 of Chapter 3, Statutes of
16 Nevada 1949, as amended by chapter 385, Statutes of Nevada
17 1955" (How); (2) No Enactment Clause. Petitioner will
18 address issue No. 1 first, There was no way for the
19 Senate or the Assembly to use "Sec. 8 of Chapter 3,
20 Statutes of Nevada 1949, as amended by chapter 385, Statutes
21 of Nevada 1955" as they were repealed by the law of
22 SB2 (1952) at "1957 Statutes of Nevada, pages 1-4",
23 hence anything prior to Jan. 21st, 1957 provided no authority to
24 do anything as that law was no longer valid. Hey no enrolled
25 bill means the legislative process is unfinished for SB2 (1952)
26 rendering the NRS VOID Ab Initio.

1 Now Petitioner Points the Court To the second issue of
2 NO. Enactment Clause on the Senate Concurrent
3 Resolution No. 1. Without this enacting clause on it, it is void.
4 With it being void, it renders the enrolled bill of SB2(1957) as
5 non-existent. Without the enrolled Bill for SB2(1957) there
6 is "No Nevada Revised Statutes" as Senate Bill No. 2(1957)
7 created Nevada Revised Statutes. The Nev. Sup. Ct. has
8 held that a Senate Concurrent Resolution that does not
9 contain the mandatory ~~to~~ enactment clause can't represent
10 the law of this state, Nevada Highway Patrol Association v.
11 The State of Nevada, DMV $\frac{1}{2}$ PS, 107 Nev. 547, 815 P2d 608(1991)
12 This Renders the Petitioners Conviction Under NRS
13 201.230 as VOID as the NRS can't exist until the
14 legislative process is finished, which requires three(3)
15 copies and each to be marked as follows "Original",
16 "Duplicate" and "Triplicate" and the process requires a
17 "enrolled bill" and "engrossed bill" without the full
18 process being complete, SB2(1957) is not finalized
19 and the NRS's obsolete until it is finalized. So
20 Petitioner Moves this Court To Vacate his
21 Conviction and Release Him As NRS 201.230 does
22 not legally exist to give the Court Subject-matter
23 jurisdiction over him.

24

25

26

GROUND 3

A) Courts May Revisit A Prior Ruling

The Federal Courts have adopted three specific exceptions to law of the case doctrine, enumerated as: (1) subsequent proceeding produce substantially new or different evidence; (2) there has been an intervening change in controlling law, or (3) the prior decision was clearly erroneous and would result in manifest injustice if enforced. *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 123 P.3d 724, 2007 Nev. Lexis 78, 123 Nev. Adv. Rep. 60 (2007). Petitioner will rely on exception of Number 3 for refiling of this issue.

B.) Petitioner Had Issue With Obtaining Evidence

On July 19th, 2017 Petitioner filed a motion for transcripts, in which was denied on Aug. 10th, 2017. On Oct. 10th, 2017 the Petitioner filed a motion to reconsider the denial of transcripts which was ultimately denied on Nov. 7th, 2017. Again Petitioner Filed a Motion For Transcripts on Nov. 28th, 2017 and Petitioner believes it was denied on Dec. 29th, 2017. Petitioner also did a motion to the Nev. Sup. Ct. during the Appeal of his first Habeas, and that motion was also denied. Then on Nov. 19th 2019 Petitioner filed a motion to compel Transcripts and a addendum to said motion on

1 Dec. 2nd, 2019 which was granted in Dec, 2019 sometime apprx., with all the
2 transcripts being filed on Jan. 22nd, 2020. Which means Petitioner didn't
3 get the transcripts until Jan. 30th, 2020 apprx. So as the Court can
4 see Petitioner had a major issue obtaining the transcripts he
5 needed to prove his issue.

6

7 C.) Good Cause, Actual Prejudice And Fundamental Miscarriage
8 Of Justice

9

10 "To overcome the procedural bars of NRS 34.726 and NRS 34.810,
11 [Petitioner has] the burden of demonstrating good cause for delay in
12 bringing his new claims or for presenting the same claims again
13 and actual prejudice. To show "good cause", a petitioner must
14 demonstrate that an impediment external to the defense
15 prevented him from raising his claims earlier for example such an
16 impediment might be demonstrated by showing "that the factual or
17 legal basis for a claim was not reasonably available", or that
18 "some interference by officials" made compliance [with the procedural
19 rule] impracticable". "Actual Prejudice" requires a showing "not
20 merely that the errors [complained of] created a possibility of
21 prejudice, but that they worked to [the petitioners'] actual and
22 substantial disadvantage, in affecting the state proceeding with
23 error of constitutional error." *Pellegrini v State*, 117 Nev. 860,
24 886-87, 34 P3d 519, 2001 Nev. Lexis 85, 117 Nev. Adv. Rep. 71 (Nov. 2001)..
25 Petitioner Points the Court to Sec. B supra for a showing of
26 cause, ~~and~~ for why the Claim was not timely filed originally which

1 was not considered by the Court originally.

2 Petitioner now points the Court to the Court minutes for
3 Mar. 8TH, 2016 which only show that the jury was sworn and not
4 by who, so there was no factual basis for his claim and belied by
5 the record. Which means all the state would've had to argue is
6 "bare" and "naked" allegations are not sufficient, nor are those
7 belied and repelled by the record. Id. NRS 34,735(6) states in
8 relevant part, "[Petitioner] must allege specific facts supporting
9 the claims in the Petition[...]. Failure to allege specific facts
10 rather than just conclusions may cause [the] petition to be
11 dismissed." Hargrove v. State DO Nev. 498, 502, 686 P.2d 222, 225.
12 (Emphasis added). By the time Petitioner filed his habeas the first
13 time, he had been denied transcripts three (3) times so it
14 would have been a mere conclusion and or speculation, which the
15 Nev. Sup. Ct. would've upheld. Thus equalling a ~~frivolous~~ frivolous
16 filing by petitioner.

17

18 D) Jeopardy Does Not Attach Until Jury Is Properly
19 Sworn

20

21 There was never a lawful jury that existed in this matter, which
22 also means they could not have found the essential elements
23 of the crime beyond a reasonable doubt. see Jackson v.
24 Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781 (1979) (Emphasis added);
25 McNair v. State, 108 Nev. 53, 825 P.2d 571, 573 (1992). No Jury equals
26 No finding of Guilt and that equals no conviction.

1 E) Judge Must Swear In Jury, IF Not It Is A
2 Structural Error

3
4 "Structural errors compromise "the framework of a trial."
5 *Brasso v. State*, 128 Nev. Adv. Op. 68, 291 P.3d 145, 148 (2012). Such errors
6 mandate routine reversal because they are "intrinsically
7 harmful. *Id.* (quoting *Cortinas v. State*, 124 Nev. 1013, 1024, 195 P.3d
8 315, 322 (2008)). The United States Supreme Court has repeatedly
9 held that a trial ~~error~~ court errors which violate a defendant's
10 Sixth Amendment right to an impartial jury are structural
11 errors that create the probability of prejudice and
12 preclude the need for showing actual prejudice to warrant
13 relief. see *Peters v. Kiff*, 407 U.S. 493, 502, 92 S.Ct. 2162, 33
14 L.Ed.2d 83 (1972) (stating that "even if there is no showing of actual
15 bias in the tribunal, this Court has held that due process is
16 denied by circumstances that create the likelihood or the
17 appearance," and citing as examples, *Mayberry v. Pennsylvania*, 400
18 U.S. 455, 465-66, 91 S.Ct. 499, 27 L.Ed.2d 532 (1971). "*Barral v.*
19 *State*, 353 P.3d 1197, 1199, 2015 Nev. Lexis 58; 131 Nev. Adv. Rep. 52.
20 On March 8th, 2016 the trial Court did not swear in the jury as
21 required by NRS 175.111, the Court Clerk swore in the actual jury.
22 see: Day Two TT pg 147 line 13 which clearly states:
23 [The Court Clerk administers the Oath to the jury] (Emphasis in Original).
24 The Nev. Sup. Ct. in *Barral*, 353 P.3d 1197 stated not only is it mandatory
25 for the Court [Judge] to swear in the jury but that it is a
26 structural error.

1 Relief Requested By Petitioner

2

3 WHEREFORE Petitioner moves this Honorable Court to find
4 that not only was his Jury not sworn, but that Petitioner's
5 Conviction is Invalid And that the Jury could not have found
6 Guilt beyond a reasonable Doubt, along with the Jury not
7 being properly sworn, Thus Petitioner moves this Honorable
8 Court to vacate his Conviction and Order a retrial.

9

10 VERIFICATION

11

12 I, Justin Odell Langford, declare and verify, that I have read
13 the above-entitled Petition, and that to the best of my knowledge
14 and belief it is true and correct under the pains and penalties of
15 perjury pursuant to 28 U.S.C. §1746.

16 DATE:

17 15/

18 Petitioner, #1159546

19

20

21

22

23

24

25

26

1 CERTIFICATE OF SERVICE

2

3 I, Justin Langford, certify, that I have attached a true and
4 correct copy of the foregoing Petition, with special instructions
5 to the Clerk of the Court for E-file and E-service to all of my
6 Opponents pursuant N.E.F.C.R. 5(K), 9 et seq. (A-E) Etc. to the
7 following:

8

9 Tim Garrett, LCC Warden

10 1200 Prison Road

11 Lovelock, Nev. 89419

12

13 Aaron Ford, Nev. Attny. Gen.

14 100 N. Carson St.

15 Carson City, Nev. 89701

16

17 Steve Wolfson, Clark Cnty. D.A.

18 200 Lewis Ave.

19 Las Vegas Nev. 89155

20

21

22

23

24

25

26

EXHIBIT

1

* Proof of NRS being Unconstitutional

EXHIBIT

1

#001
LCC

NRS 171.010 Jurisdiction of offense committed in State. Every person, whether an inhabitant of this state, or any other state, or of a territory or district of the United States, is liable to punishment by the laws of this state for a public offense committed therein, except where it is by law cognizable exclusively in the courts of the United States.
[1911 Cr. Prac. § 58; RL § 6908; NCL § 10705]

NRS 171.020 Act within this State culminating in crime in this or another state. Whenever a person, with intent to commit a crime, does any act within this State in execution or part execution of such intent, which culminates in the commission of a crime, either within or without this State, such person is punishable for such crime in this State in the same manner as if the same had been committed entirely within this State.
[1911 Cr. Prac. § 59a; added 1927, 87; NCL § 10707]



↓1927 Statutes of Nevada, Page 87↓

[Assembly Bill No. 117—Mr. Maupin]

CHAP. 64—*An Act to amend an act entitled "An act to regulate proceedings in criminal cases in this state and to repeal all other acts in relation thereto," approved March 17, 1911, by adding thereto a new section, to be known as section 59a.*

[Approved March 15, 1927]

The People of the State of Nevada, represented in the Senate and Assembly, do enact as follows:

SECTION 1. The above-entitled act is hereby amended by adding the following new section, to be known as section 59a.

Section 59a. Whenever a person, with intent to commit a crime, does any act within this state in execution or part execution of such intent, which culminates in the commission of a crime, either within or without this state, such person is punishable for such crime in this state in the same manner as if the same had been committed entirely within this state.

Intent to commit crime;
jurisdiction

EXHIBIT

2

* Senate Bill No. 2 (1957)

EXHIBIT

2

LCC #001

ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING
AND ENACTING NEVADA REVISED STATUTES

Chapter 2, Statutes of Nevada 1957, page 2

AN ACT to revise the laws and statutes of the State of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the State of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

[Approved January 25, 1957]

The People of the State of Nevada, represented in Senate and Assembly
do enact as follows:

Section 1. Enactment of Nevada Revised Statutes. The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.

Sec. 2. Designation and citation. The Nevada Revised Statutes adopted and enacted into law by this act, and as hereafter amended and supplemented and printed and published pursuant to law, shall be known as Nevada Revised Statutes and may be cited as "NRS" followed by the number of the Title, chapter or section, as appropriate.

Sec. 3. Repeal of prior laws. Except as provided in section 5 of this act and unless expressly continued by specific provisions of Nevada Revised Statutes, all laws and statutes of the State of Nevada of a general, public and permanent nature enacted prior to January 21, 1957, hereby are repealed.

Sec. 4. Construction of act.

1. The Nevada Revised Statutes, as enacted by this act, are intended to speak for themselves; and all sections of the Nevada Revised Statutes as so enacted shall be considered to speak as of the same date, except that in cases of conflict between two or more sections or of any ambiguity in a section, reference may be had to the acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity.

2. The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act.

3. The incorporation of initiated and referred measures is not to be deemed a legislative reenactment or amendment thereof, but only a mechanical inclusion thereof into the Nevada Revised Statutes.

4. The various analyses set out in Nevada Revised Statutes, constituting enumerations or lists of the Titles, chapters and sections of Nevada Revised Statutes, and the descriptive headings or catchlines immediately preceding or within the texts of individual sections, except the section numbers included in the headings or catchlines immediately preceding the texts of such sections, do not constitute part of the law. All derivation and other notes set out in Nevada Revised Statutes are given for the purpose of convenient reference, and do not constitute part of the law.

5. Whenever any reference is made to any portion of Nevada Revised Statutes or of any other law of this state or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

Sec. 5. Effect of enactment of NRS and repealing clause.

1. The adoption and enactment of Nevada Revised Statutes shall not be construed to repeal or in any way affect or modify:

(a) Any special, local or temporary laws.

(b) Any law making an appropriation.

(c) Any law affecting any bond issue or by which any bond issue may have been authorized.

(d) The running of the statutes of limitations in force at the time this act becomes effective.

(e) The continued existence and operation of any department, agency or office heretofore legally established or held.

(f) Any bond of any public officer.

(g) Any taxes, fees, assessments or other charges incurred or imposed.

(h) Any statutes authorizing, ratifying, confirming, approving or accepting any compact or contract with any other state or with the United States or any agency or instrumentality thereof.

2. All laws, rights and obligations set forth in subsection 1 of this section shall continue and exist in all respects as if Nevada Revised Statutes had not been adopted and enacted.

3. The repeal of prior laws and statutes provided in section 3 of this act shall not affect any act done, or any cause of action accrued or established, nor any plea, defense, bar or matter subsisting before the time when such repeal shall take effect; but the proceedings in every case shall conform with the provisions of Nevada Revised Statutes.

4. All the provisions of laws and statutes repealed by section 3 of this act shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office, or trust, or any transaction, or event, or any limitation, or any right, or obligation, or the construction of any contract already affected by such laws, notwithstanding the repeal of such provisions.

5. No fine, forfeiture or penalty incurred under laws or statutes existing prior to the time Nevada Revised Statutes take effect shall be affected by repeal of such existing laws or statutes, but the recovery of such fines and forfeitures and the enforcement of such penalties shall be effected as if the law or statute repealed had still remained in effect.

6. When an offense is committed prior to the time Nevada Revised Statutes take effect, the offender shall be punished under the law or statute in effect when the offense was committed.

7. No law or statute which heretofore has been repealed shall be revived by the repeal provided in section 3 of this act.

8. The repeal by section 3 of this act of a law or statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal.

9. If any provision of the Nevada Revised Statutes as enacted by this act, derived from an act that amended or repealed a preexisting statute, is held unconstitutional, the provisions of section 3 of this act shall not prevent the preexisting statute from being law if that appears to have been the intent of the legislature or the people.

Sec. 6. Severability of provisions. If any provision of the Nevada Revised Statutes or amendments thereto, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of the Nevada Revised Statutes or such amendments that can be given effect without the invalid provision or application, and to this end the provisions of Nevada Revised Statutes and such amendments are declared to be severable.

Sec. 7. Effective date. This act, and each and all of the laws and statutes herein contained and hereby enacted as the Nevada Revised Statutes, shall take effect upon passage and approval.

Sec. 8. Omission from session laws. The provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada as provided by NRS 218.500 and NRS 218.510; but there shall be inserted immediately following section 9 of this act the words: "(Here followed NRS 1.010 to 710.590, inclusive.)"

Sec. 9. Content of Nevada Revised Statutes. The following laws and statutes attached hereto, consisting of NRS sections 1.010 to 710.590, inclusive, constitute the Nevada Revised Statutes:

(Here followed NRS 1.010 to 710.590, inclusive.)

EXHIBIT 3

*
Krig v. State, 2009 WL 1491110 (Nev)

EXHIBIT 3

LCC #001

Slip Copy, 2009 WL 1491110 (Nev.)
 (Table, Text in WESTLAW), Unpublished Disposition
 (Cite as: 2009 WL 1491110 (Nev.))
 2009 Nev. LEXIS 849

Only the Westlaw citation is currently available. An unpublished order shall not be regarded as precedent and shall not be cited as legal authority. SCR 123.

This decision was reviewed by West editorial staff and not assigned editorial enhancements.

Supreme Court of Nevada,
 Lance G. KRIG, Appellant,

v.

The STATE of Nevada, Respondent.
 No. 58976.

Feb. 2, 2009.

Paul E. Wommer

Attorney General Catherine Cortez Masto/Carson City

Clark County District Attorney David J. Roger

ORDER OF AFFIRMANCE

*1 This is an appeal from a judgment of conviction, pursuant to a plea in accordance with *Nevada v. Alford*, 400 U.S. 25 (1970), of a single count of coercion. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Lance Krig to serve a term of 12 to 48 months in prison.

On appeal, Krig claims that the district court erred in denying his pretrial motion to dismiss for lack of subject matter jurisdiction. Specifically, Krig argues that the statutes under which he was charged and convicted ^{FNI} are unconstitutional, as they each lack the enacting clause mandated by Article 4, Section 23 of the Nevada Constitution. This argument is without merit.

FNI. The amended criminal information charged Krig with two counts of sexual assault in violation of NRS 200.364 and NRS 200.366, and one count of attempted sexual assault in violation of NRS 200.364, NRS 200.366 and NRS 193.330. The second amended information, to which Krig pleaded guilty, charged Krig with one count of coercion in violation of NRS 207.190.

The enacting clause of the Nevada Constitution states, "The enacting clause of every law shall be as follows: THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS; and no law shall be enacted except by bill." Nev. Const. art. 4, § 23. This court has interpreted the enacting clause to require that all laws express upon their face "the authority by which they were enacted." *State of Nevada v. Kiger*, 10 Nev. 250, 261 (1875); *WIS-4032*, at 27 (1875). Krig asserts that the laws under which he was charged and convicted, as compiled in the Nevada Revised Statutes, lack this enacting clause and are therefore unconstitutional.

However, Krig fails to recognize that each of the acts creating and last amending the statutes at issue, as published in the Advanced Sheets of Nevada Statutes (Statutes of Nevada), begins with the phrase "THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS." 1997 Nev. Stat., ch. 313, at 1174; 1995 Nev. Stat., ch. 293, at 308; 2007 Nev. Stat., ch. 528, at 3243; 1995 Nev. Stat., ch. 443, at 1167. Thus, the statutes under which Krig was charged and convicted comply with the constitutional mandate of Article 4, Section 23. See *Ladden v. State*, 686 N.W.2d 873, 876-77 (Minn.2004) (holding that, where appellant argued that his convictions were unconstitutional because statutes under which he was charged did not contain constitutionally required enacting clauses, appellant's convictions were not unconsti-

EXHIBIT 11

Slip Copy, 2009 WL 1491110 (Nev.)
 (Table, Text in WESTLAW), Unpublished Disposition
 (Cite as: 2009 WL 1491110 (Nev.))

tutional as acts creating and amending laws began with required phrase); *State v. Wittne*, No. 90747, 2008 WL 4813830, * 4 (Ohio Ct.App. Nov. 6, 2008) (holding that omission of constitutionally required enacting clauses in Ohio Revised Code "in no way affects the validity of the statutes themselves" where clauses were contained in senate bill enacting laws).

Further, Krig's argument conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law." NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been compiled, printed, and arranged by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are contained in the Statutes of Nevada, which as mentioned above, do contain the mandatory enacting clauses. Moreover, NRS 220.110, which sets forth the required contents of the Nevada Revised Statutes, does not mandate that the enacting clauses be republished in the Nevada Revised Statutes. Thus, we conclude that the fact that the Nevada Revised Statutes do not contain enacting clauses does not render the statutes unconstitutional. Therefore, Krig's convictions are not constitutionally deficient. Accordingly, we

*2 ORDER the judgment of conviction AFFIRMED.

Nev., 2009.
 Krig v. State
 Slip Copy, 2009 WL 1491110 (Nev.)

END OF DOCUMENT

" //

EXHIBIT 4

* Letters from Nev. Sup. Ct. Law Library

EXHIBIT 4



SUPREME COURT OF NEVADA
 LAW LIBRARY
 SUPREME COURT BUILDING
 201 SOUTH CARSON STREET, SUITE 100
 CARSON CITY, NEVADA 89701-4702

TELEPHONE
 (775) 684-1640

June 4, 2021

Justin Odell Langford, #1159546
 Lovelock Correctional Center
 1200 Prison Rd.
 Lovelock, NV 89419

Dear Mr. Langford:

Thank you for your correspondence. This information is provided as a courtesy only and is in no way intended to substitute for the advice of a private attorney.

Although we are unable to conduct research for you, we can provide you with materials, if your request is specific enough. We are unable to send books or supplements – only photocopies of materials from the Law Library’s collection, up to 10 cases or statutes (or 100 pages) per request. Only requests related to criminal law will be answered. We fulfill requests in the order in which they are received. **If your request is urgent, please place it through your institution’s law library.** We usually process requests received via Inmate Banking within 24 hours of receipt. Please do not send multiple requests for the same materials. Do not send cash, stamps or any object of value. After receiving your request, we will notify you of the estimated cost and, when payment is received, we will process your request. The Nevada Supreme Court Library requires prepayment for photocopies (\$0.10 per page for photocopies) plus postage. Payment should be submitted via check or money order made payable to the Nevada Supreme Court Library.

To ensure a prompt response, please follow these guidelines:

1. Write on a full sheet of paper. Include your complete name, address, and DOC number, and sign all requests.
2. We provide cases and statutes and are unable to give legal advice or provide forms to non-attorneys. Only requests related to criminal law will be answered.
3. Responses may take up to four weeks to receive. **If your request is urgent, please place it through your institution’s law library.** Requests received via NDOC Inmate Banking are usually processed within 24 hours.
4. Make your requests specific and provide citations.

Examples of specific requests	Examples of vague requests
State v. Smith, 1 P.3d 100 (1988)	Cases on sentencing
NRS 200.280 as it was in 1999	Anything you have on the Fourth Amendment

We will use the following checklist when responding to your request:

- We have attached your letter with the items checked off that we are able to provide. The estimated total cost is \$ _____. This includes _____ copies at \$0.10 per page, totaling \$ _____, plus \$ _____ for postage. Please submit payment by check or money order made payable to the Nevada Supreme Court Library. Mail payment to Supreme Court of Nevada Law Library, 201 S. Carson Street, Suite 100, Carson City, NV 89701.

Since your request is for a minimal number of pages, I am sending it to you free of charge this time:

- *1. The statutes in 1911 were not published in a hard copy. The state did not have the funds to publish in 1911 so all of the statutes were published in the 1912 Revised Laws; there is nothing I can provide for 1911.
2. RL 1912, sec. 6908 - included
3. Cl. 1929, sec. 10705 and 10707 - included
- *4. There was nothing published in 1927. do you have a better citation (book title or publisher for this item?)
- *5. I am sending the language of 171.010 and 171.020 before they were repealed. They were not added to other chapters or sections in the NRS.

- We have received your payment and have attached your letter with the items checked off with the items we were able to provide. This letter will also serve as your receipt for the amount of \$ _____.
- You have asked for too many cases or statutes. Please submit an updated request that falls within the limit of ten cases/statutes (or 100 pages).
- We are unable to process your request. Please give case name, citation and year when requesting a copy of a case. Please give statute name and citation when asking for a statute.
- The request exceeds "fair use" provisions in copyright law.
- Your request is beyond the scope of services we offer.
- Other: _____

We are returning your letter for your records.

Librarian

NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any

purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

EXHIBIT 5

* NRS 220.170

EXHIBIT 5

#001
LCC

NRS 220.167 Sets of NRS to be provided to district, justices' and municipal courts.

1. Each board of county commissioners shall provide a complete set of Nevada Revised Statutes with annotations to each district court or department thereof and each justice's court or department thereof regularly established in the county, and shall provide corresponding sets of replacement or supplementary pages as issued.

2. The governing body of each city shall similarly provide for each department of its municipal court.

3. If a justice of the peace is ex officio municipal judge, the county and city shall share equally the cost for his court.

(Added to NRS by 1977, 484; A 1979, 508; 1989, 250, 592, 604)

NRS 220.170 Certification; NRS as official codified version of Statutes of Nevada and prima facie evidence of law; citation.

1. The master copy of Nevada Revised Statutes, as printed and bound in accordance with NRS 220.130, must contain a certificate of the Director of the Statute Revision Commission that he has compared each section thereof with the original section of the enrolled bill by which Nevada Revised Statutes was adopted and enacted, and that the sections in the published edition are correctly copied. All other printed and bound copies of Nevada Revised Statutes must contain a copy of the certificate.

2. Each set of replacement or supplementary pages, prepared in accordance with NRS 220.160 and published before January 1, 1963, for inclusion in the master copy of Nevada Revised Statutes, must be accompanied by a certificate of the Director of the Statute Revision Commission, and each set published after January 1, 1963, by a certificate of the Legislative Counsel, that he has compared each section thereof with the original section of the enrolled bill, and that, with the exception of the changes authorized by law, the sections set forth in the replacement or supplementary pages are correctly copied. All other sets of replacement or supplementary pages must be accompanied by a copy of the certificate. All such certificates must be inserted in the bound copies of Nevada Revised Statutes in chronological order immediately following the initial certificate of the Director.

3. Copies of Nevada Revised Statutes, as printed, published, revised, supplemented and certified in accordance with this chapter, constitute the official codified version of Statutes of Nevada and may be cited as prima facie evidence of the law in all of the courts of this state. Except as otherwise provided in this subsection, that evidence may be rebutted by proof that the statutes cited differ from the official Statutes of Nevada. That evidence may not be rebutted by proof that the statutes differ from the official Statutes of Nevada in a manner authorized pursuant to NRS 220.120.

4. Nevada Revised Statutes and its component parts may be cited as follows:

(a) Nevada Revised Statutes: NRS

(b) A title: title 00 of NRS

(c) A chapter: chapter 000 of NRS

(d) A section: NRS 000.000

[13:304:1951; A 1953, 388]—(NRS A 1957, 5; 1963, 1024; 1967, 35; 1989, 1167; 2003, 328)

WEST PUBLISHING CO.
Statutes ⇐ 282.

WESTLAW Topic No. 361.
C.J.S. Statutes § 441.

EXHIBIT

6

* NRS 220.120

EXHIBIT

6

LCC #001

NRS 220.120 Annotations and supplements to Nevada Revised Statutes: Publication; numbering of sections; classification, arrangement and revision; resolution of nonsubstantive conflicts between multiple laws.

1. In preparing the annotations and keeping Nevada Revised Statutes current, the Legislative Counsel is authorized:
 - (a) To adopt such system of numbering as he deems practical.
 - (b) To cause the revision to be published in a number of volumes deemed convenient.
 - (c) To cause the volumes to be bound in loose-leaf binders of good, and so far as possible, permanent quality.
2. The pages of Nevada Revised Statutes must conform in size and printing style to the pages of the Statutes of Nevada, and roman style type must be used.
3. The Legislative Counsel shall classify and arrange the entire body of statute laws in logical order throughout the volumes, the arrangement to be such as will enable subjects of a kindred nature to be placed under one general head, with necessary cross references.
4. Notes of decisions of the Supreme Court, historical references and other material must be printed and arranged in such manner as the Legislative Counsel finds will promote the usefulness thereof.
5. The Legislative Counsel in keeping Nevada Revised Statutes current shall not alter the sense, meaning or effect of any legislative act, but may renumber sections and parts of sections thereof, change the wording of headnotes, rearrange sections, change reference numbers or words to agree with renumbered chapters or sections, substitute the word "chapter" for "article" and the like, substitute figures for written words and vice versa, change capitalization for the purpose of uniformity, correct inaccurate references to the titles of officers, the names of departments or other agencies of the State, local governments, or the Federal Government, and such other name changes as are necessary to be consistent with the laws of this state and correct manifest clerical or typographical errors.
6. The Legislative Counsel may create new titles, chapters and sections of Nevada Revised Statutes, or otherwise revise the title, chapter and sectional organization of Nevada Revised Statutes, all as may be required from time to time, to effectuate the orderly and logical arrangement of the statutes. Any new titles, chapters, sections and organizational revisions have the same force and effect as the 58 titles originally enacted and designated as the Nevada Revised Statutes pursuant to chapter 2, Statutes of Nevada 1957.
7. The Legislative Counsel shall assign NRS numbers to such new permanent and general laws enacted at any legislative session.
8. The Legislative Counsel shall resolve all nonsubstantive conflicts between multiple laws enacted at any legislative session as if made by a single enactment. If multiple amendments to a single section of NRS are made during a legislative session, such amendments are all effective and must be compiled in a manner that is consistent with the intent of the Legislature as determined by the Legislative Counsel.
9. The Legislative Counsel shall substitute the name of any agency, officer or instrumentality of the State or of a political subdivision whose name is changed by law or to which powers, duties and responsibilities have been transferred by law, for the name which the agency, officer or instrumentality previously used or which was previously vested with the same powers and charged with the same duties and responsibilities.

[3:304:1951; A 1953, 388]—(NRS A 1963, 1022; 1965, 1459; 1989, 248; 2003, 327, 2093)

EXHIBIT

7

* 1957 Statutes of Nevada, Page 787 "Assembly concurrent Resolution No. 1"

EXHIBIT

7

LCC: #001

RESOLUTIONS AND MEMORIALS

↓1957 Statutes of Nevada, Page 787↓

Resolutions and Memorials

Senate Concurrent Resolution No. 1—Committee on Judiciary

FILE NO. 1

SENATE CONCURRENT RESOLUTION—Providing that the official engrossed copy of Senate Bill No. 2 may be used as the enrolled bill.

WHEREAS, The provisions of sec. 8 of chapter 3, Statutes of Nevada 1949, as amended by chapter 385, Statutes of Nevada 1955, provide that the official engrossed copy of a bill may by resolution be used as the enrolled bill; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the official engrossed copy of Senate Bill No. 2 shall be used as the enrolled bill as provided by law.

Assembly Concurrent Resolution No. 1—Committee on Judiciary

FILE NO. 2

ASSEMBLY CONCURRENT RESOLUTION—Expressing congratulations and gratitude to Russel West McDonald upon completion and enactment of Nevada Revised Statutes.

WHEREAS, The 48th session of the legislature of the State of Nevada, by unanimous vote of the members thereof, has enacted into law the Nevada Revised Statutes as the law of the State of Nevada to supersede all prior laws of a general, public and permanent nature; and

WHEREAS, Nevada Revised Statutes constitutes a complete revision and reorganization of all general statutes enacted during the 95 years that Nevada has existed as a state and territory, and is the first such revision in the history of our state; and

WHEREAS, The preparation of Nevada Revised Statutes was a monumental undertaking requiring a degree of intelligence, knowledge, technical ability and dedication possessed by few men; and

WHEREAS, The State of Nevada was fortunate that the Justices of the Supreme Court of the State of Nevada, in their capacity as the Statute Revision Commission, were able to secure as director of the commission Russell West McDonald, a native-born Nevadan, educated in the public schools of our state, a Rhodes scholar and a graduate of Stanford Law School, who was eminently qualified in all respects to perform the tremendous task imposed upon him; and

WHEREAS, The enactment of Nevada Revised Statutes marks the culmination of nearly 6 years of exceptionally devoted public service on the part of Russell West McDonald as statute reviser and legislative bill drafter; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislature of the State of Nevada hereby extends to Russell West McDonald its most hearty congratulations upon the completion and enactment of Nevada Revised Statutes and expresses to him its gratitude and that of the people of the State of Nevada for the years of selfless, dedicated and devoted effort which he has contributed in the public service to the preparation of Nevada Revised Statutes; and be it further

↓1957 Statutes of Nevada, Page 788 (FILE NO. 2, ACR 1)↓

to Russell West McDonald its most hearty congratulations upon the completion and enactment of Nevada Revised Statutes and expresses to him its gratitude and that of the people of the State of Nevada for the years of selfless, dedicated and devoted effort which he has contributed in the public service to the preparation of Nevada Revised Statutes; and be it further

Resolved, That a copy of this resolution, signed by all of the members of the 48th session of the Nevada legislature, be duly certified by the secretary of state of the State of Nevada and be transmitted forthwith to Russell West McDonald.

Assembly Concurrent Resolution No. 2—Committee on Legislative Functions

FILE NO. 3

ASSEMBLY CONCURRENT RESOLUTION—Memorializing the late United States Senator and governor, Edward P. Carville.

WHEREAS, The people of our state suffered a tremendous loss on the 27th day of June, 1956, by the passing of the beloved and esteemed Edward P. Carville; and

WHEREAS, Edward P. Carville, affectionately known as "Ted," was a native of Mound Valley, the son of a pioneer Nevada family, was educated in the schools of this state, and was a graduate of Notre Dame University; and

WHEREAS, Few persons have ever held so many high offices of honor and trust as the late "Ted" Carville, who, in addition to his role as a civic leader and outstanding attorney, served with distinction as district attorney, district judge, United States District Attorney, and finally as our governor and United States Senator, and his industriousness, selfless dedication and integrity were the keys to his success as a lawyer and public servant and will forever remain as a radiant example for our future statesmen; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That we express this day our profound sorrow and condolences to the family of the late Senator Carville and tender them our deepest sympathy, and that we further acknowledge to them the irreparable loss which the calling of the late Senator Carville means to this state and nation; and be it further

EXHIBIT

8

* 1957 statutes of Nevada, Page 1-6

EXHIBIT

8

LCC #001

LAWS OF THE STATE OF NEVADA

↓1957 Statutes of Nevada, Page 1↓

LAWS OF THE STATE OF NEVADA

Passed at the
FORTY-EIGHTH SESSION OF THE LEGISLATURE
1957

Senate Bill No. 1—Senator Johnson

CHAPTER 1

AN ACT creating a legislative fund.

[Approved January 23, 1957]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. For the purpose of paying the salaries, mileage, and the postage and stationery allowances of members of the 1957 Nevada legislature, the salaries of the attaches, and the incidental expenses of the respective houses thereof, and the unpaid expenses incurred by the 1956 special session of the Nevada legislature, the state treasurer is hereby authorized and required to set apart, from any money now in the general fund not otherwise appropriated, the sum of \$150,000, which shall constitute the legislative fund.

SEC. 2. The state controller is hereby authorized and required to draw his warrants on the legislative fund in favor of the members and employees of the senate and assembly for per diem, mileage, stationery allowances, compensation, and incidental expenses of the respective houses, when properly certified in accordance with law, and the state treasurer is hereby authorized and required to pay the same.

SEC. 3. Any unexpended portion of the legislative fund shall revert to the general fund on December 31, 1959.

SEC. 4. This act shall become effective upon passage and approval.

Senate Bill No. 2—Committee on Judiciary

CHAPTER 2

AN ACT to revise the laws and statutes of the State of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the State of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

[Approved January 25, 1957]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. Enactment of Nevada Revised Statutes. The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.

↓1957 Statutes of Nevada, Page 2 (CHAPTER 2, SB 2)↓

SEC. 2. Designation and Citation. The Nevada Revised Statutes adopted and enacted into law by this act, and as hereafter amended and supplemented and printed and published pursuant to law, shall be known as Nevada Revised Statutes and may be cited as "NRS" followed by the number of the Title, chapter or section, as appropriate.

SEC. 3. Repeal of Prior Laws. Except as provided in section 5 of this act and unless expressly continued by specific provisions of Nevada Revised Statutes, all laws and statutes of the State of Nevada of a general, public and permanent nature enacted prior to January 21, 1957, hereby are repealed.

SEC. 4. Construction of Act.

1. The Nevada Revised Statutes, as enacted by this act, are intended to speak for themselves; and all sections of the Nevada Revised Statutes as so enacted shall be considered to speak as of the same date, except that in cases of conflict between two or more sections or of any ambiguity in a section, reference may be had to the acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity.

2. The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act.

3. The incorporation of initiated and referred measures is not to be deemed a legislative reenactment or amendment thereof, but only a mechanical inclusion thereof into the Nevada Revised Statutes.

4. The various analyses set out in Nevada Revised Statutes, constituting enumerations or lists of the Titles, chapters and sections of Nevada Revised Statutes, and the descriptive headings or catchlines immediately preceding or within the texts of individual sections, except the section numbers included in the headings or catchlines immediately preceding the texts of such sections, do not constitute part of the law. All derivation and other notes set out in Nevada Revised Statutes are given for the purpose of convenient reference, and do not constitute part of the law.

5. Whenever any reference is made to any portion of Nevada Revised Statutes or of any other law of this state or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

SEC. 5. Effect of Enactment of NRS and Repealing Clause.

1. The adoption and enactment of Nevada Revised Statutes shall not be construed to repeal or in any way affect or modify:

(a) Any special, local or temporary laws.

(b) Any law making an appropriation.

(c) Any law affecting any bond issue or by which any bond issue may have been authorized.

(d) The running of the statutes of limitations in force at the time this act becomes effective.

(e) The continued existence and operation of any department, agency or office heretofore legally established or held.

(f) Any bond of any public officer.

.....
↓1957 Statutes of Nevada, Page 3 (CHAPTER 2, SB 2)↓

(g) Any taxes, fees, assessments or other charges incurred or imposed.

(h) Any statutes authorizing, ratifying, confirming, approving or accepting any compact or contract with any other state or with the United States or any agency or instrumentality thereof.

2. All laws, rights and obligations set forth in subsection 1 of this section shall continue and exist in all respects as if Nevada Revised Statutes had not been adopted and enacted.

3. The repeal of prior laws and statutes provided in section 3 of this act shall not affect any act done, or any cause of action accrued or established, nor any plea, defense, bar or matter subsisting before the time when such repeal shall take effect; but the proceedings in every case shall conform with the provisions of Nevada Revised Statutes.

4. All the provisions of laws and statutes repealed by section 3 of this act shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office, or trust, or any transaction, or event, or any limitation, or any right, or obligation, or the construction of any contract already affected by such laws, notwithstanding the repeal of such provisions.

5. No fine, forfeiture or penalty incurred under laws or statutes existing prior to the time Nevada Revised Statutes take effect shall be affected by repeal of such existing laws or statutes, but the recovery of such fines and forfeitures and the enforcement of such penalties shall be effected as if the law or statute repealed had still remained in effect.

6. When an offense is committed prior to the time Nevada Revised Statutes take effect, the offender shall be punished under the law or statute in effect when the offense was committed.

7. No law or statute which heretofore has been repealed shall be revived by the repeal provided in section 3 of this act.

8. The repeal by section 3 of this act of a law or statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal.

9. If any provision of the Nevada Revised Statutes as enacted by this act, derived from an act that amended or repealed a preexisting statute, is held unconstitutional, the provisions of section 3 of this act shall not prevent the preexisting statute from being law if that appears to have been the intent of the legislature or the people.

SEC. 6. Severability of Provisions. If any provision of the Nevada Revised Statutes or amendments thereto, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of the Nevada Revised Statutes or such amendments that can be given effect without the invalid provision or application, and to this end the provisions of Nevada Revised Statutes and such amendments are declared to be severable.

SEC. 7. Effective Date. This act, and each and all of the laws and statutes herein contained and hereby enacted as the Nevada Revised Statutes, shall take effect upon passage and approval.

.....
↓1957 Statutes of Nevada, Page 4 (CHAPTER 2, SB 2)↓

statutes herein contained and hereby enacted as the Nevada Revised Statutes, shall take effect upon passage and approval.

SEC. 8. Omission From Session Laws. The provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada as provided by NRS 218.500 and NRS 218.510; but there shall be inserted immediately following section 9 of this act the words: "(Here followed NRS 1.010 to 710.590, inclusive.)"

SEC. 9. Content of Nevada Revised Statutes. The following laws and statutes attached hereto, consisting of NRS sections 1.010 to 710.590, inclusive, constitute the Nevada Revised Statutes:
(Here followed NRS 1.010 to 710.590, inclusive.)

Senate Bill No. 3—Committee on Judiciary

CHAPTER 3

AN ACT to amend NRS section 218.310 relating to drafting of bills, and to amend NRS sections 220.100, 220.130, 220.160 and 220.170 relating to the duties of the statute revision commission.

[Approved January 25, 1957]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. NRS 218.310 is hereby amended to read as follows:

218.310 1. Bills to amend existing general statutes *and all bills to enact new statutes of a general, public and permanent nature shall be deemed amendments to NRS* and shall contain reference to [sections of] NRS. [in the body of the bill rather than in the title.]

2. New matter shall be indicated by underscoring in the typewritten copy and italics in the printed copy [.] *except in bills to add new chapters or Titles to NRS and which do not amend existing sections of NRS.*

3. Matter to be omitted shall be indicated by brackets in the typewritten copy and brackets or strike-out type in the printed copy.

4. In the drafting and printing of bills all matter appearing as omitted and bracketed in previously enacted and printed statutes shall be omitted entirely.

SEC. 2. NRS 220.100 is hereby amended to read as follows:

220.100 1. As soon as practicable after May 1, 1951, the commission shall commence the preparation of a complete revision and compilation of the laws of the State of Nevada of general application, and a compilation of the constitution of the State of Nevada, together with brief annotations to sections thereof.

2. The revision when completed shall be known as Nevada Revised Statutes [,,] and the year of first publication shall be filled in in the blank space of the title. For brevity the title may be cited as NRS [.....] *and may be cited as NRS followed by the number of the Title, chapter or section, as appropriate.*

.....
↓1957 Statutes of Nevada, Page 5 (CHAPTER 3, SB 3)↓

SEC. 3. NRS 220.130 is hereby amended to read as follows:

220.130 1. Upon completion of Nevada Revised Statutes, the commission is authorized and directed to have the same printed, lithoprinted or reproduced by any other process at the state printing office. Sufficient copies of each page shall be printed or reproduced so that there shall be bound 2,500 copies of each volume of Nevada Revised Statutes.

2. Upon completion of the final printing or other reproduction the separate volumes shall be bound as required in this chapter and forwarded to the secretary of state for safekeeping and disposition. The secretary of state shall sell each set at a price to be set by the commission as near as possible to the cost of preparing, printing and binding, and all proceeds of sales shall be deposited in the general fund.

3. A master copy of Nevada Revised Statutes [,,] shall be kept in the office of the commission, and the master copy shall not be removed from the office except in the custody of a member of the commission or the director thereof.

SEC. 4. NRS 220.160 is hereby amended to read as follows:

220.160 1. Upon the completion of Nevada Revised Statutes [,,] the commission is authorized and directed to prepare and have printed or reproduced such replacement and supplementary pages for such laws as may,

from time to time, be necessary. In any event, the commission shall prepare replacement and supplementary pages made necessary by the sessions of the legislature as soon as possible after each session.

2. The intent of this section is that Nevada Revised Statutes shall be kept current insofar as may be possible. To that end, the provisions of this chapter and, in particular, NRS 220.120 shall be applicable to the preparation and printing or reproduction of such replacement and supplementary pages.

3. Prices shall be set by the commission as near as possible to the cost of preparing, printing and reproduction.

SEC. 5. NRS 220.170 is hereby amended to read as follows:

220.170 [Upon completion, Nevada Revised Statutes,, may be cited as prima facie evidence of the law in all of the courts of this state. Such evidence may be rebutted by proof that the same differ from the official statutes of Nevada.] 1. The master copy of Nevada Revised Statutes, as printed and bound in accordance with NRS 220.130, shall contain a certificate of the director that he has compared each section thereof with the original section of the enrolled bill by which Nevada Revised Statutes was adopted and enacted, and that the sections in the published edition are correctly copied. All other printed and bound copies of Nevada Revised Statutes shall contain a copy of the certificate.

2. Each set of replacement or supplementary pages, prepared in accordance with NRS 220.160 and provided for inclusion in the master copy of Nevada Revised Statutes, shall be accompanied by a certificate of the director that he has compared each section thereof with the original section of the enrolled bill, and that, with the exception of the changes authorized by law, the sections set forth in the replacement or supplementary pages are correctly copied.

.....
↓1957 Statutes of Nevada, Page 6 (CHAPTER 3, SB 3)↓

or supplementary pages are correctly copied. All other sets of replacement or supplementary pages shall be accompanied by a copy of the certificate. All such certificates shall be inserted in the bound copies of Nevada Revised Statutes in chronological order immediately following the initial certificate of the director.

3. Copies of Nevada Revised Statutes, as printed, published, revised, supplemented and certified in accordance with this chapter, may be cited as prima facie evidence of the law in all of the courts of this state. Such evidence may be rebutted by proof that the same differ from the official statutes of Nevada.

SEC. 6. This act shall become effective upon passage and approval.

Assembly Bill No. 14—Messrs. McKissick and Hill

CHAPTER 4

AN ACT to amend chapter 379 of NRS relating to county, city and town public libraries by creating a new provision providing penalties for willful detention of property owned by public libraries.

[Approved February 18, 1957]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. Chapter 379 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Any person who willfully detains any book, newspaper, magazine, pamphlet, manuscript, filmstrip or other property of any public library or reading room for more than 30 days after receipt of written notice demanding the return of any such article or property shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50.

Assembly Bill No. 74—Washoe County Delegation

CHAPTER 5

AN ACT to amend and supplement an act entitled "An Act authorizing and empowering the board of county commissioners of the county of Washoe, State of Nevada, in their discretion, not later than 3 years after the passage and approval of this act, to issue bonds for the construction, furnishing and equipment of additional medical facilities at Washoe Medical Center, a public county hospital in such county, and to levy a tax for the payment of interest thereon and the redemption thereof, and other matters relating thereto," approved February 25, 1956; and to ratify, approve and confirm action and proceedings heretofore taken or adopted relating to the issuance of those bonds.

[Approved February 18, 1957]

EXHIBIT

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**All versions of NRS 201.230 "without enactment clause"*

EXHIBIT

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LCC #001

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada state hospital, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 80. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who [shall make] *makes* any open and indecent or obscene exposure of his person, or of the person of another, [shall be guilty of either a gross misdemeanor or a felony, depending on the gravity of the offense as determined by the verdict of the jury or judgment of the court.] *is guilty:*

(a) *For the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.*

.....
↓1967 Statutes of Nevada, Page 477 (CHAPTER 211, AB 71)↓

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada state hospital, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

* SEC. 81. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who shall willfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of rape and the infamous crime against nature, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be [guilty of a felony.

2. For the violation of any of the provisions of this section, the trial judge shall fix, specifically, a determinate sentence of the person convicted, which shall, in each case, consist of imprisonment in the state prison for not less than 5 years nor more than 10 years.

3.] *punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.*

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada state hospital, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 82. (There is no section 82.)

SEC. 83. NRS 201.280 is hereby amended to read as follows:

201.280 Every person who shall erect or keep a booth, tent, stall or other contrivance for the purpose of selling or otherwise disposing of any wine, or spirituous or fermented liquors, or any drink of which wine, spirituous or fermented liquors form a part, within 1 mile of any camp or field meeting for religious worship, during the time of holding such meeting, [shall be deemed] *is guilty of a misdemeanor.* [.] and punished by a fine not exceeding \$500.]

SEC. 84. NRS 201.300 is hereby amended to read as follows:

201.300 1. Any person who:

[1.] (a) Shall induce, persuade, encourage, inveigle or entice a female person to become a prostitute; or

[2.] (b) By threats, violence or by any device or scheme, shall cause, induce, persuade, encourage, take, place, harbor, inveigle or entice a

.....
↓1967 Statutes of Nevada, Page 478 (CHAPTER 211, AB 71)↓

3. No person convicted of violating the provisions of subsection 1 of this section may, if the victim was a child under the age of 14 years, be:

(a) Paroled unless a board consisting of the superintendent of the Nevada [state hospital.] *mental health institute*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety and morals of others.

SEC. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. Every person who commits any act of open or gross lewdness is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction

.....
↓1973 Statutes of Nevada, Page 96 (CHAPTER 69, SB 189)↓

shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada [state hospital.] *mental health institute*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada [state hospital.] *mental health institute*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

*SEC. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who shall willfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of rape and the infamous crime against nature, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the superintendent of the Nevada [state hospital.] *mental health institute*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 16. NRS 209.145 is hereby amended to read as follows:

.....
↓1973 Statutes of Nevada, Page 97 (CHAPTER 69, SB 189)↓

209.145 The warden shall provide a facility for the detention and treatment of such persons committed to the custody of the superintendent of the Nevada [state hospital] *mental health institute* pursuant to NRS 178.425 as the superintendent may deem it proper to place in such facility.

SEC. 17. NRS 210.200 is hereby amended to read as follows:

210.200 1. Upon request of the superintendent, a person committed to the school shall be accepted by the Nevada [state hospital] *mental health institute* for observation, diagnosis and treatment, for a period not to exceed 90 days.

psychiatrist certifies that such person was under observation while confined in the Nevada state prison and is not a menace to the health, safety or morals of others.

SEC. 9. NRS 201.190 is hereby amended to read as follows:

201.190 1. Except as provided in subsection 2, every person of full age who commits the infamous crime against nature shall be punished:

(a) Where physical force or the immediate threat of such force is used by the defendant to compel another person to participate in such offense, or where such offense is committed upon the person of one who is under the age of 18 years, by imprisonment in the state prison for life with possibility of parole, eligibility for which begins, unless further restricted by subsection 3, when a minimum of 5 years has been served.

(b) Otherwise, by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person who is compelled by another, through physical force or the immediate threat of such force, to participate in the infamous crime against nature is thereby guilty of any public offense.

3. No person convicted of violating the provisions of subsection 1 of this section may, if the victim was a child under the age of 14 years, be:

(a) Paroled unless a board consisting of the [superintendent of the Nevada mental health institute.] *administrator of the mental hygiene and mental retardation division of the department of health, welfare and rehabilitation or his designee*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation

.....
1973 Statutes of Nevada, Page 255 (CHAPTER 195, SB 193).....

while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety and morals of others.

SEC. 10. NRS 201.210 is hereby amended to read as follows:

201.210 1. Every person who commits any act of open or gross lewdness is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the [superintendent of the Nevada mental health institute.] *administrator of the mental hygiene and mental retardation division of the department of health, welfare and rehabilitation or his designee*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 11. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the [superintendent of the Nevada mental health institute.] *administrator of the mental hygiene and mental retardation division of the department of health, welfare and rehabilitation or his designee*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 12. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who shall willfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of rape and the infamous crime against nature, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent

.....
1973 Statutes of Nevada, Page 256 (CHAPTER 195, SB 193).....

of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the [superintendent of the Nevada mental health institute.] *administrator of the mental hygiene and mental retardation division of the department of health, welfare and rehabilitation or his designee*, the warden of the Nevada state prison and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certify that such person was under observation while confined in the state prison and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 13. NRS 209.145 is hereby amended to read as follows:

209.145 The warden shall provide a facility for the detention and treatment of such persons committed to the custody of the [superintendent of the Nevada mental health institute.] *administrator of the mental hygiene and mental retardation division of the department of health, welfare and rehabilitation* pursuant to NRS 178.425 as the [superintendent.] *administrator* may deem it proper to place in such facility.

SEC. 14. Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.

SEC. 15. "Administrator" means the administrator of the mental hygiene and mental retardation division.

SEC. 16. "Division facility" means any unit or subunit operated by the division.

SEC. 17. NRS 433.005 is hereby amended to read as follows:

433.005 As used in NRS 433.005 to 433.640, inclusive, and sections 15 and 16 of this act, unless the context otherwise requires, the words and terms defined in NRS 433.006 to 433.012, inclusive, and sections 15 and 16 of this act have the meanings ascribed to them in such sections.

SEC. 18. NRS 433.020 is hereby amended to read as follows:

433.020 1. That certain public institution heretofore established and maintained for the care of the mentally ill of the state shall be known as the Nevada mental health institute.

2. That public institution constructed in Las Vegas, Nevada, and maintained for the care of the mentally ill shall be known as the Las Vegas mental health center.

3. The words "insane asylum," "institute for the care of the insane," "state hospital," and all words of like import used in any law, process, investigation, subpoena, or commitment, or in relation to any board or commission pertaining to or in any way concerning the arrest, examination, detention, or care of the mentally ill in this state shall be deemed to relate to the Nevada mental health institute, [or] the Las Vegas mental health center [.] or any other division facility, and all processes and proceedings relating to the mentally ill of the state shall be conducted in [either of those names.] *the name of any such facility or in the name of the division*

.....
1973 Statutes of Nevada, Page 257 (CHAPTER 195, SB 193).....

- 201.210 1. Every person who commits any act of open or gross lewdness is guilty:
- (a) For the first offense, of a gross misdemeanor.
 - (b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.
2. No person convicted of violating the provisions of subsection 1 of this section may be:
- (a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] *director of the department of prisons* and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such

.....
 ↓1977 Statutes of Nevada, Page 867 (CHAPTER 430, SB 116)↓

person was under observation while confined in [the state prison] *an institution of the department of prisons* and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 86. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] *director of the department of prisons* and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in [the state prison] *an institution of the department of prisons* and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

*SEC. 87. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who [shall] willfully and lewdly [commit] *commits* any lewd or lascivious act, other than acts constituting the crime of rape and the infamous crime against nature, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the [warden of the Nevada state prison] *director of the department of prisons* and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in [the state prison] *an institution of the department of prisons* and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

SEC. 88. NRS 202.380 is hereby amended to read as follows:

202.380 1. Every person, firm or corporation who within the State of Nevada knowingly sells or offers for sale, possesses or transports any

.....
 ↓1977 Statutes of Nevada, Page 868 (CHAPTER 430, SB 116)↓

form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such shell, cartridge or bomb, except as permitted under the provisions of NRS 202.370 to 202.440, inclusive, is guilty of a gross misdemeanor.

2. Nothing in NRS 202.370 to 202.440, inclusive, shall prohibit police departments or regular salaried peace officers thereof, sheriffs and their regular salaried deputies, [wardens and guards of the Nevada state prison.] *the director, deputy director and superintendents of, and guards employed by, the department of prisons, personnel of*

2. The district judge shall not grant probation until a written report is received by him from the chief parole and probation officer. The chief parole and probation officer shall submit a written report not later than 30 days following a request for a probation investigation from the county clerk, and if no report is submitted by the chief parole and probation officer within 30 days the district judge may grant probation without the written report.

3. In issuing the order granting probation, the court may fix the terms and conditions thereof, including a requirement for restitution as provided in NRS 176.189, except that the court shall not suspend the execution of a sentence of imprisonment after the defendant has begun to serve [the sentence.] *it*.

4. In placing any defendant on probation or in granting any defendant a suspended sentence, the court shall direct that he be placed under the supervision of the chief parole and probation officer.

5. The court shall also, upon the entering of the order of probation or suspension of sentence, as provided for in NRS 176.175 to 176.245, inclusive, direct the clerk of the court to certify a copy of the records in the case and deliver the copy to the chief parole and probation officer.

SEC. 16. NRS 199.480 is hereby amended to read as follows:

199.480 1. Whenever two or more persons conspire to commit murder, robbery, [forcible rape,] *sexual assault*, kidnaping in the first or second degree, or arson in the first or second degree, each person shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. Whenever two or more persons conspire:

(a) To commit any crime other than those set forth in subsection 1, and no punishment is otherwise prescribed by law;

(b) Falsely and maliciously to procure another to be arrested or proceeded against for a crime;

(c) Falsely to institute or maintain any action or proceeding;

.....
↓1977 Statutes of Nevada, Page 1632 (CHAPTER 598, SB 412)↓

(d) To cheat or defraud another out of any property by unlawful or fraudulent means;

(e) To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof;

(f) To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or

(g) To accomplish any criminal or unlawful purpose, or to accomplish a purpose, not in itself criminal or unlawful, by criminal or unlawful means.

each person is guilty of a gross misdemeanor.

SEC. 17. NRS 201.190 is hereby amended to read as follows:

201.190 1. Except as provided in [subsection 2.] *NRS 201.230 and section 3 of this act*, every person of full age who commits the infamous crime against nature shall be punished [

(a) Where physical force or the immediate threat of such force is used by the defendant to compel another person to participate in such offense, or where such offense is committed upon the person of one who is under the age of 18 years, by imprisonment in the state prison for life with possibility of parole, eligibility for which begins, unless further restricted by subsection 3, when a minimum of 5 years has been served.

(b) Otherwise.] by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. [No person who is compelled by another, through physical force or the immediate threat of such force, to participate in the infamous crime against nature is thereby guilty of any public offense.

3. No person convicted of violating the provisions of subsection 1 of this section may, if the victim was a child under the age of 14 years, be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety and morals of others.] *The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.*

*SEC. 18. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of [rape and the infamous crime against nature,] *sexual assault*, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or

.....
↓1977 Statutes of Nevada, Page 1633 (CHAPTER 598, SB 412)↓

sexual desires of such person or of such child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

2. If any married person [or persons within this state being married, or who shall hereafter marry, do at any time marry] marries any other person [or persons] while the former husband or wife [being] is alive, the person so offending shall [, on conviction thereof,] be punished by a fine [not exceeding \$1,000,] of not more than \$5,000, or by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by both fine and imprisonment.
3. It [shall] is not [be] necessary to prove either of the marriages by the register and certificate thereof, or other record evidence, but [the same] those marriages may be proved by such evidence as is admissible to prove a marriage in other cases; and when [such] the second marriage [shall have] has taken place without this state, cohabitation in this state after such second marriage [shall be deemed] constitutes the commission of the crime of bigamy.
4. [Nothing herein contained shall] This section does not extend:

↓1979 Statutes of Nevada, Page 1429 (CHAPTER 655, SB 9)↓

(a) To any person [or persons] whose husband or wife [shall have] has been continually absent from [such person or persons] that person for the space of 5 years together prior to the second marriage, [and] if he or she [not knowing] did not know such husband or wife to be living within that time.

(b) To any person [that is or shall be,] who is, at the time of such second marriage, divorced by lawful authority from the bonds of such former marriage, or to any person where the former marriage has been by lawful authority declared void.

Sec. 42. NRS 201.170 is hereby amended to read as follows:

201.170 If any [man or woman,] person, being unmarried, [shall knowingly marry] knowingly marries the husband or wife of another, [such man or woman] that person shall [, on conviction,] be punished by a fine of not more than [\$1,000] \$5,000, or by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by both fine and imprisonment.

Sec. 43. NRS 201.180 is hereby amended to read as follows:

201.180 Persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void, who [shall] intermarry with each other, or who [shall] commit fornication or adultery with each other, shall [, upon conviction,] be punished by imprisonment in the state prison not less than 1 [nor exceeding] year nor more than 10 years [, and may be further punished by a fine of not more than \$10,000]

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 201.210 is hereby amended to read as follows:

201.210 1. Every person who commits any act of open or gross lewdness is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and [upon conviction] shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years [, and may be further punished by a fine of not more than \$5,000]

2. No person convicted of violating the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 46. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a felony, and upon conviction

↓1979 Statutes of Nevada, Page 1430 (CHAPTER 655, SB 9)↓

shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years [, and may be further punished by a fine of not more than \$5,000,]

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 47. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of [such] that person or of [such] that child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years [, and may be further punished by a fine of not more than \$10,000]

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist certifies that such person was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that such person is not a menace to the health, safety or morals of others.

Sec. 48. NRS 201.300 is hereby amended to read as follows:

201.300 1. Any person who:

(a) Induces, persuades, encourages, inveigles, entices or compels a person to become a prostitute or to continue to engage in prostitution;

(b) By threats, violence or by any device or scheme, causes, induces, persuades, encourages, takes, places, harbors, inveigles or entices a person to become an inmate of a house of prostitution or assignation place, or any place where prostitution is practiced, encouraged or allowed;

(c) By threats, violence, or by any device or scheme, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, inveigles, entices, persuades, encourages or procures a person to enter

↓1979 Statutes of Nevada, Page 1431 (CHAPTER 655, SB 9)↓

any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution:

(d) By promises, threats, violence, or by any device or scheme, by fraud or artifice, by duress of person or goods, or abuse of any position of confidence or authority or having legal charge, takes, places, harbors, inveigles, entices, persuades, encourages or procures a person of previous chaste character to enter any place within this state in which prostitution is practiced, encouraged or allowed for the purpose of sexual intercourse;

(e) Takes or detains a person with the intent to compel such person by force, threats, menace or duress to marry him or any other person; or

(f) Receives, gives or agrees to receive or give any money or thing of value for procuring or attempting to procure any person to become a prostitute or to come into this state or leave this state for the purpose of prostitution.

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of [the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist] :

(1) *The administrator of the mental hygiene and mental retardation division of the department of human resources;*

(2) *The director of the department of prisons; and*

(3) *A physician authorized to practice medicine in Nevada who is also a qualified psychiatrist.*

.....
↓1983 Statutes of Nevada, Page 207 (CHAPTER 55, SB 113)↓

certifies that [such person] *the person so convicted* was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. *For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.*

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that [such person] *the person so convicted* is not a menace to the health, safety or morals of others.

* Sec. 4. NRS 201.230 is hereby amended to read as follows:

201.230 1. Any person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of [the administrator of the mental hygiene and mental retardation division of the department of human resources or his designee, the director of the department of prisons and a physician authorized to practice medicine in Nevada who is also a qualified psychiatrist] :

(1) *The administrator of the mental hygiene and mental retardation division of the department of human resources;*

(2) *The director of the department of prisons; and*

(3) *A physician authorized to practice medicine in Nevada who is also a qualified psychiatrist.*

certifies that [such person] *the person so convicted* was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. *For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.*

(b) Released on probation unless a psychiatrist licensed to practice medicine in the State of Nevada certifies that [such person] *the person so convicted* is not a menace to the health, safety or morals of others.

Sec. 5. This act shall become effective upon passage and approval.

.....
↓1983 Statutes of Nevada, Page 208↓

Senate Bill No. 33—Committee on Natural Resources

CHAPTER 56

AN ACT relating to the state legislature; revising provisions governing the legislative committee for the review of federal regulations; renaming the committee; expanding its membership; adding to its powers and duties; and providing other matters properly relating thereto.

[Approved March 16, 1983]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

(b) For any subsequent offense, of a felony, and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. No person convicted of violating the provisions of subsection 1 may be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(2) The director of the department of prisons; and

(3) A [physician authorized] *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada*, [who is also a qualified psychiatrist.]

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.

(b) Released on probation unless a *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in [the State of] Nevada* certifies that the person so convicted is not a menace to the health, safety or morals of others.

Sec. 17. NRS 201.220 is hereby amended to read as follows:

201.220 1. Every person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

.....
↓1991 Statutes of Nevada, Page 1009 (CHAPTER 389, AB 429)↓

(b) For any subsequent offense, of a felony, and upon conviction shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(2) The director of the department of prisons; and

(3) A [physician authorized] *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada*, [who is also a qualified psychiatrist.]

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.

(b) Released on probation unless a *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in [the State of] Nevada* certifies that the person so convicted is not a menace to the health, safety or morals of others.

* **Sec. 18. NRS 201.230** is hereby amended to read as follows:

201.230 1. Any person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. No person convicted of violating any of the provisions of subsection 1 of this section may be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(2) The director of the department of prisons; and

(3) A [physician authorized] *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada*, [who is also a qualified psychiatrist.]

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.

(b) Released on probation unless a *psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in [the State of] Nevada* certifies that the person so convicted is not a menace to the health, safety or morals of others.

.....
↓1991 Statutes of Nevada, Page 1010 (CHAPTER 389, AB 429)↓

Sec. 19. NRS 201.450 is hereby amended to read as follows:

201.205 1. [Any] A person who, after testing positive in a test approved by the state board of health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, intentionally, knowingly or willfully engages in conduct in a manner that is intended or likely to transmit the disease to another person is guilty of a *category B* felony and shall be punished by imprisonment in the state prison for a *minimum term* of not less than [1 year nor] 2 years and a *maximum term* of not more than [20] 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. It is an affirmative defense to an offense charged pursuant to subsection 1 that the person who was subject to exposure to the human immunodeficiency virus as a result of the prohibited conduct:

- (a) Knew the defendant was infected with the human immunodeficiency virus;
- (b) Knew the conduct could result in exposure to the human immunodeficiency virus; and
- (c) Consented to engage in the conduct with that knowledge.

Sec. 87. NRS 201.210 is hereby amended to read as follows:

201.210 1. [Every] A person who commits any act of open or gross lewdness is guilty:

- (a) For the first offense, of a gross misdemeanor.
- (b) For any subsequent offense, of a *category D* felony [.] and shall be punished [by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. No] as provided in NRS 193.130.

2. A person convicted of violating the provisions of subsection 1 [may] *must not* be:

- (a) Paroled unless a board consisting of:
 - (1) The administrator of the mental hygiene and mental retardation division of the department of human resources;
 - (2) The director of the department of prisons; and
 - (3) A psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada.
- certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health,

.....
↓1995 Statutes of Nevada, Page 1200 (CHAPTER 443, SB 416)↓

safety or morals of others. For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.

(b) Released on probation unless a psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

Sec. 88. NRS 201.220 is hereby amended to read as follows:

201.220 1. [Every] A person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

- (a) For the first offense, of a gross misdemeanor.
- (b) For any subsequent offense, of a *category D* felony [.] and upon conviction] and shall be punished [by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. No] as provided in NRS 193.130.

2. A person convicted of violating any of the provisions of subsection 1 [of this section may] *must not* be:

- (a) Paroled unless a board consisting of:
 - (1) The administrator of the mental hygiene and mental retardation division of the department of human resources;
 - (2) The director of the department of prisons; and
 - (3) A psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada.

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this paragraph, the administrator and the director may each designate a person to represent him on the board.

(b) Released on probation unless a psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

***Sec. 89. NRS 201.230** is hereby amended to read as follows:

201.230 1. [Any] A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a *category B* felony and shall be punished by imprisonment in the state prison for a *minimum term* of not less than [1 year nor] 2 years and a *maximum term* of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(d) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his normal range of performance or behavior.

Sec. 3. NRS 200.750 is hereby amended to read as follows:

200.750 [Each] A person punishable pursuant to NRS 200.710 or 200.720 shall be punished for a category A felony [:

1. By] by imprisonment in the state prison:

1. If the minor is 14 years of age or older:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(b) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.]: and

2. By]

and shall be further punished by a fine of not more than \$100,000.

2. If the minor is less than 14 years of age, for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and shall be further punished by a fine of not more than \$100,000.

Sec. 4. NRS 201.195 is hereby amended to read as follows:

201.195 1. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature:

(a) If the minor actually engaged in such acts as a result [.] and:

(1) The minor was less than 14 years of age, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

(2) The minor was 14 years of age or older, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. A person convicted of violating any of the provisions of subsection 1 may not be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources or his designee;

(2) The director of the department of prisons or his designee; and

(3) A psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada.

.....
↓1997 Statutes of Nevada, Page 1722 (CHAPTER 455, AB 280)↓

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

3. As used in this section, the "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature.

***Sec. 5. NRS 201.230** is hereby amended to read as follows:

201.230 1. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category [B] A felony and shall be punished by imprisonment in the state prison for [a minimum term of not less than 2 years and a maximum term of not more than] life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years [.] has been served, and may be further punished by a fine of not more than \$10,000.

2. A person convicted of violating any of the provisions of subsection 1 must not be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(2) The director of the department of prisons; and

2. [A person convicted of violating any of the provisions of subsection 1 must not be paroled unless a board consisting of:

.....
↓1997 Statutes of Nevada, Page 2502 (CHAPTER 524, SB 5)↓

(a) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(b) The director of the department of prisons; and

(c) A psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada.

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this subsection, the administrator and the director may each designate a person to represent him on the board.

3. A person who has been certified pursuant to subsection 2 who returns for any reason to the custody of the department of prisons may not be paroled unless a board recertifies him in the manner set forth in subsection 2.

4. The board may revoke the certification of an offender certified pursuant to subsection 2 at any time.

5. This section does not create a right in any person to be certified or continue to be certified and no person may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to place a person before a board for certification pursuant to this section.

6. A person convicted of violating any of the provisions of subsection 1 must not be released on probation unless a psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

7.] For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

*Sec. 4. NRS 201.230 is hereby amended to read as follows:

201.230 [1.] A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

[2. A person convicted of violating any of the provisions of subsection 1 must not be paroled unless a board consisting of:

(a) The administrator of the mental hygiene and mental retardation division of the department of human resources;

(b) The director of the department of prisons; and

(c) A psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada.

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this subsection, the

.....
↓1997 Statutes of Nevada, Page 2503 (CHAPTER 524, SB 5)↓

administrator and the director may each designate a person to represent him on the board.

3. A person who has been certified pursuant to subsection 2 who returns for any reason to the custody of the department of prisons may not be paroled unless a board recertifies him in the manner set forth in subsection 2.

4. The board may revoke the certification of an offender certified pursuant to subsection 2 at any time.

5. This section does not create a right in any person to be certified or continue to be certified and no person may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to place a person before a board for certification pursuant to this section.

6. A person convicted of violating any of the provisions of subsection 1 must not be released on probation unless a psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.]

Sec. 5. NRS 201.450 is hereby amended to read as follows:

201.450 1. A person who commits a sexual penetration on the dead body of a human being is guilty of a category A felony and shall be punished by imprisonment in the state prison:

departments, officers or employees for not certifying or refusing to place a person before a board for certification pursuant to this section.

.....
↓1997 Statutes of Nevada, Page 3189 (CHAPTER 641, SB 328)↓

6. A person convicted of violating any of the provisions of subsection 1 must not be released on probation unless a psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

[3.] 7. For the purposes of this section, the breast feeding of a child by the [child's] mother of the child does not constitute an act of open or gross lewdness.

Sec. 18. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.

2. A person convicted of violating any of the provisions of subsection 1 must not [be:

(a) Paroled] *be paroled* unless a board consisting of:

[(1)] (a) The administrator of the mental hygiene and mental retardation division of the department of human resources;

[(2)] (b) The director of the department of prisons; and

[(3)] (c) A psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada,

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this [paragraph.] subsection, the administrator and the director may each designate a person to represent him on the board.

[(b) Released]

3. A person who has been certified pursuant to subsection 2 who returns for any reason to the custody of the department of prisons may not be paroled unless a board recertifies him in the manner set forth in subsection 2.

4. The board may revoke the certification of an offender certified pursuant to subsection 2 at any time.

5. This section does not create a right in any person to be certified or continue to be certified and no person may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to place a person before a board for certification pursuant to this section.

6. A person convicted of violating any of the provisions of subsection 1 must not be released on probation unless a psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

[3.] 7. For the purposes of this section, the breast feeding of a child by the [child's] mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

.....
↓1997 Statutes of Nevada, Page 3190 (CHAPTER 641, SB 328)↓

★ Sec. 19. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person who wilfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. A person convicted of violating any of the provisions of subsection 1 must not [be:

(a) Paroled] *be paroled* unless a board consisting of:

[(1)] (a) The administrator of the mental hygiene and mental retardation division of the department of human resources;

[(2)] (b) The director of the department of prisons; and

[(3)] (c) A psychologist licensed to practice in the State of Nevada or a psychiatrist licensed to practice medicine in the State of Nevada,

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others. For the purposes of this [paragraph.] subsection, the administrator and the director may each designate a person to represent him on the board.

[(b) Released]

3. A person who has been certified pursuant to subsection 2 who returns for any reason to the custody of the department of prisons may not be paroled unless a board recertifies him in the manner set forth in subsection 2.

1. The department, through the *welfare* division, ~~for health care financing and policy,~~ shall pay, under the state plan for Medicaid:

(a) A freestanding facility for hospice care licensed pursuant to NRS 449.030; or

(b) A program for hospice care licensed pursuant to NRS 449.030, for the services for hospice care provided by that facility or program to a person who is eligible to receive Medicaid.

2. As used in this section:

(a) "Freestanding facility for hospice care" has the meaning ascribed to it in NRS 449.006.

(b) "Hospice care" has the meaning ascribed to it in NRS 449.0115.

Sec. 49. 1. Sections 2, 4, 5 and 6 of chapter 455, Statutes of Nevada 1997, at pages 1720, 1721 and 1722, are hereby amended to read respectively as follows:

Sec. 2. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who:

(a) Willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect; or

(b) Is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for an act or omission which brings about the abuse, neglect or danger.

2. A person who violates any provision of subsection 1, if substantial bodily or mental harm results to the child ~~††~~:

(a) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) In all other such cases to which paragraph (a) does not apply, is guilty of a category B felony and shall be punished by

.....
↓1999 Statutes of Nevada, Page 471 (CHAPTER 105, SB 453)↓

imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

3. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his normal range of performance or behavior.

Sec. 4. NRS 201.195 is hereby amended to read as follows:

201.195 1. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature:

(a) If the minor actually engaged in such acts as a result ~~††~~ and:

(1) The minor was less than 14 years of age, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

(2) The minor was 14 years of age or older, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. As used in this section, the "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature.

*Sec. 5. NRS 201.230 is hereby amended to read as follows:

201.230 A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category ~~B~~ A felony and

↓1999 Statutes of Nevada, Page 472 (CHAPTER 105, SB 453)↓

shall be punished by imprisonment in the state prison for ~~a minimum term of not less than 2 years and a maximum term of not more than~~ *life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served*, and may be further punished by a fine of not more than \$10,000.

Sec. 6. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In addition to any conditions of parole required to be imposed pursuant to section 94 of Senate Bill No. 325 of this session, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 2 against a child under the age of 14 years, the board shall, when appropriate:*

- (a) *Require the parolee to participate in psychological counseling;*
- (b) *Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and*
- (c) *Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.*

2. *The provisions of subsection 1 apply to a prisoner who was convicted of:*

- (a) *Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;*
- (b) *Abuse or neglect of a child pursuant to paragraph (a) of subsection 2 of NRS 200.508;*
- (c) *An offense punishable pursuant to subsection 2 of NRS 200.750;*
- (d) *Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;*
- (e) *Lewdness with a child pursuant to NRS 201.230; or*
- (f) *Any combination of the crimes listed in paragraphs (a) to (e), inclusive.*

2. Chapter 455, Statutes of Nevada 1997, at page 1723, is hereby amended by adding thereto a new section to be designated as section 10, immediately following section 9, to read as follows:

Sec. 10. Sections 2, 4 and 5 of this act become effective at 12:01 a.m. on October 1, 1997.

Sec. 50. Section 5 of chapter 464, Statutes of Nevada 1997, at page 1739, is hereby amended to read as follows:

Sec. 5. NRS 354.624 is hereby amended to read as follows:

354.624 1. Each local government shall provide for an annual audit of all of its:

- (a) Funds;
- (b) Account groups; and
- (c) Separate accounts established pursuant to NRS 354.603.

↓1999 Statutes of Nevada, Page 473 (CHAPTER 105, SB 453)↓

A local government may provide for more frequent audits as it deems necessary. Except as otherwise provided in subsection 2, each annual audit must be concluded and the report of the audit submitted to the governing body as provided in subsection 5 not later than 5 months after the close of the fiscal year for which the audit is conducted. An extension of this time may be granted by the department of taxation to any local government ~~which makes~~ *that submits an* application for an extension ~~to the department~~. If the local government fails to provide for an audit in accordance with the provisions of this section, the department of taxation shall cause the audit to be made at the expense of the local government. All audits must be ~~made~~ *conducted* by a public accountant *who is* certified or registered or by a partnership or professional corporation *that is* registered pursuant to chapter 628 of NRS.

2. The annual audit of a school district must be concluded and the report submitted to the board of trustees as provided in subsection 5 not later than 4 months after the close of the fiscal year for which the audit is conducted.

3. The governing body may, without requiring competitive bids, designate the auditor or firm annually. The auditor or firm must be designated not later than 3 months before the close of the fiscal year for which the audit is to be made.

4. Each annual audit must cover the business of the local government during the full fiscal year. It must be a financial audit conducted in accordance with generally accepted auditing standards, including comment on compliance with statutes and regulations, recommendations for improvements and any other comments deemed

public with access to certain information in the statewide registry concerning certain sex offenders and offenders convicted of a crime against a child; and providing other matters properly relating thereto.

[Approved: June 10, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in ~~subsection 3~~ **subsections 3 and 4**, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

- (1) For life without the possibility of parole;
- (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or
- (3) For a definite term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison:

- (1) For life, with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or
- (2) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. ~~Except as otherwise provided in subsection 4~~, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison:

.....
↓**2003 Statutes of Nevada, Page 2826 (CHAPTER 461, AB 78)**↓

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(2) For a definite term of ~~20~~ 40 years, with eligibility for parole beginning when a minimum of ~~5~~ 15 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served.

4. *A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:*

(a) *A sexual assault pursuant to this section or any other sexual offense against a child; or*

(b) *An offense committed in another jurisdiction that, if committed in this state, would constitute a sexual assault pursuant to this section or any other sexual offense against a child, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.*

5. *For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:*

(a) *Incest pursuant to NRS 201.180;*

(b) *Lewdness with a child pursuant to NRS 201.230;*

(c) *Sado-masochistic abuse pursuant to NRS 201.262; or*

(d) *Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.*

*Sec. 2. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of *lewdness with a child*.

2. *Except as otherwise provided in subsection 3, a person who commits lewdness with a child is guilty of a category A felony and shall be punished by imprisonment in the state prison for ~~life~~:*

(a) *Life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000 ~~+~~; or*

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, or

~~(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,~~

as determined by the verdict of the jury, or the judgment of the court if there is no jury.

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category ~~B~~ A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of ~~not more than 15 years.~~ *life with the possibility of parole.*

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category ~~B~~ A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of ~~not more than 15 years.~~ *life with the possibility of parole.*

In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than \$10,000.

Sec. 29. NRS 200.730 is hereby amended to read as follows:

200.730 A person who knowingly and willfully has in his possession for any purpose any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct:

1. For the first offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. For any subsequent offense, is guilty of a category ~~B~~ A felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of ~~not more than 10 years.~~ *life with the possibility of parole,* and may be further punished by a fine of not more than \$5,000.

Sec. 30. NRS 200.750 is hereby amended to read as follows:

200.750 A person punishable pursuant to NRS 200.710 or 200.720 shall be punished for a category A felony by imprisonment in the state prison:

1. If the minor is 14 years of age or older ~~+~~

~~(a) For~~, for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served ~~+~~ or

~~(b) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.~~

~~+~~, and shall be further punished by a fine of not more than \$100,000.

2. If the minor is less than 14 years of age, for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years

.....
↓2005 Statutes of Nevada, Page 2877 (CHAPTER 507, SB 341)↓

has been served, and shall be further punished by a fine of not more than \$100,000.

Sec. 31. NRS 201.180 is hereby amended to read as follows:

201.180 Persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void ~~+~~ who intermarry with each other ~~+~~ or who commit fornication or adultery with each other ~~+~~ shall be punished for a category ~~B~~ A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of ~~not more than 10 years.~~ *life with the possibility of parole,* and may be further punished by a fine of not more than \$10,000.

Sec. 32. NRS 201.195 is hereby amended to read as follows:

201.195 1. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature:

(a) If the minor actually engaged in such acts as a result and:

(1) The minor was less than 14 years of age, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

(2) The minor was 14 years of age or older, is guilty of a category ~~B~~ A felony and shall be punished ~~as provided in NRS 193.130~~ by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a category ~~B~~ A felony and shall be punished ~~as provided in NRS 193.130~~ by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

2. As used in this section, the "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete

the infamous crime against nature.

★ **Sec. 33. NRS 201.230** is hereby amended to read as follows:

201.230 1. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a child.

2. Except as otherwise provided in subsection 3, a person who commits lewdness with a child is guilty of a category A felony and shall be punished by imprisonment in the state prison for ~~†~~

~~— (a) Life} life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000. † or~~

~~— (b) A definite term of 20 years, with eligibility for parole after a minimum of 2 years has been served, and may further be punished by a fine of not more than \$10,000. †~~

3. A person who commits lewdness with a child and who has been previously convicted of:

.....
↓2005 Statutes of Nevada, Page 2878 (CHAPTER 507, SB 341)↓

(a) Lewdness with a child pursuant to this section or any other sexual offense against a child; or
(b) An offense committed in another jurisdiction that, if committed in this State, would constitute lewdness with a child pursuant to this section or any other sexual offense against a child,
↪ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

4. For the purpose of this section, "other sexual offense against a child" has the meaning ascribed to it in subsection 5 of NRS 200.366.

Sec. 34. NRS 201.450 is hereby amended to read as follows:

201.450 1. A person who commits a sexual penetration on the dead body of a human being is guilty of a category A felony and shall be punished by imprisonment in the state prison ~~†~~

~~— (a) For} for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served †~~

~~— (b) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served;~~

~~— (c) By} , and shall be further punished by a fine of not more than \$20,000. † or~~

~~— (d) By both fine and imprisonment. †~~

2. For the purposes of this section, "sexual penetration" means cunnilingus, fellatio or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including, without limitation, sexual intercourse in what would be its ordinary meaning if practiced upon the living.

Sec. 34.5. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The Board shall not release on parole a prisoner convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Human Resources or his designee;

(b) The Director of the Department of Corrections or his designee; and

(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State,

↪ certifies that the prisoner was under observation while confined in an institution of the Department of Corrections and does not represent a high risk to reoffend based upon a currently accepted standard of assessment.

2. A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the Department of Corrections may not be paroled unless a panel recertifies him in the manner set forth in subsection 1.

3. The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.

4. This section does not create a right in any prisoner to be certified or to continue to be certified. No prisoner may bring a cause of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a prisoner pursuant to this section or for refusing to place a prisoner before a panel for certification pursuant to this section.

5. The provisions of this section apply to a prisoner convicted of any of the following offenses:

.....
↓2005 Statutes of Nevada, Page 2879 (CHAPTER 507, SB 341)↓

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

.....
↓2015 Statutes of Nevada, Page 2240 (CHAPTER 399, AB 49)↓

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:

(1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

Sec. 12. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

In a prosecution for pandering or sex trafficking pursuant to NRS 201.300, expert testimony concerning:

1. *The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate:*

(a) *The dynamics of and the manipulation and psychological control measures used in the relationship between a prostitute and a person who engages in pandering or sex trafficking in violation of NRS 201.300; and*

(b) *The normal behavior and language used in the prostitution subculture.*

2. *The effect of pandering or sex trafficking may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.*

Sec. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. A person who commits any act of open or gross lewdness is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.*

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Sec. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.*

.....
↓2015 Statutes of Nevada, Page 2241 (CHAPTER 399, AB 49)↓

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

*Sec. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person ~~who~~ *is guilty of lewdness with a child if he or she:*

(a) *Is 18 years of age or older and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of ~~14~~ 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child ~~who is guilty of lewdness with a child~~; or*

(b) *Is under the age of 18 years and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child.*

2. Except as otherwise provided in ~~subsection 3.~~ *subsections 4 and 5*, a person who commits lewdness with a child *under the age of 14 years* is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

3. *Except as otherwise provided in subsection 4, a person who commits lewdness with a child who is 14 or 15 years of age is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.*

4. ~~At~~ *Except as otherwise provided in subsection 5, a person who commits lewdness with a child and who has been previously convicted of:*

(a) Lewdness with a child pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute lewdness with a child pursuant to this section or any other sexual offense against a child.

→ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

~~At~~ 5. *A person who is under the age of 18 years and who commits lewdness with a child under the age of 14 years commits a delinquent act.*

6. For the purpose of this section, "other sexual offense against a child" has the meaning ascribed to it in subsection ~~5~~ 6 of NRS 200.366.

Sec. 16. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 12 of this act*, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.
2. "Child" means a person less than 18 years of age.

.....
↓**2015 Statutes of Nevada, Page 2242 (CHAPTER 399, AB 49)**↓

3. "Induce" means to persuade, encourage, inveigle or entice.

4. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 17. NRS 201.520 is hereby amended to read as follows:

201.520 "Sexual conduct" means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;

4. Physical contact by a person with the unclothed genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;

5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;

6. Masturbation or the lewd exhibition of unclothed genitals; ~~for~~

7. Sado-masochistic abuse ~~for~~; or

8. *Any lewd or lascivious act upon or with the body, or any part or member thereof, of another person.*

Sec. 18. NRS 201.540 is hereby amended to read as follows:

201.540 1. Except as otherwise provided in subsection ~~1~~ 3, a person who:

(a) Is 21 years of age or older;

(b) Is or was employed in a position of authority by a public school or private school or is or was volunteering in a position of authority at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 16 or 17 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

EXHIBIT

10

* NRS 201.230 (Historical Section)

EXHIBIT

10

LCC #001



November 5, 2020

In response to your request we have provided:

The 1997 and 1999 versions of NRS 201.230.

1997:

NRS 201.230 Lewdness with child under 14 years; penalty. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

[1911 C&P § 195 1/2; added 1925, 17; A 1947, 24; 1943 NCL § 10143]—(NRS A 1961, 92; 1967, 477; 1973, 96, 255, 1406; 1977, 867, 1632; 1979, 1430; 1983, 207; 1991, 1009; 1995, 1200; 1997, 1722, 2502, 3190)

1999:

NRS 201.230 Lewdness with child under 14 years; penalty. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

[1911 C&P § 195 1/2; added 1925, 17; A 1947, 24; 1943 NCL § 10143]—(NRS A 1961, 92; 1967, 477; 1973, 96, 255, 1406; 1977, 867, 1632; 1979, 1430; 1983, 207; 1991, 1009; 1995, 1200; 1997, 1722, 2502, 3190; 1999, 470, 472)

The other item, Chapter 2, *Statutes of Nevada 1957*, is Senate Bill (S.B.) 2 from 1957. The legislative history for S.B. 2 (which includes Ch. 2, *Statutes of Nevada 1957*) is already available from your law library via LexisNexis.

EXHIBIT 77

* Letter From The Legal Division of the LCB

EXHIBIT 77

LCC #001

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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BRENDA J. ERDOES, *Director*
(775) 684-6800

LEGAL DIVISION (775) 684-6830

April 7, 2022

Justin O. Langford #1159546
Lovelock Correctional Center
1200 Prison Road
Lovelock NV 89419

Re: Written response to public records requests.

Dear Justin O. Langford:

On March 31, 2022, the Legislative Counsel Bureau (LCB) received, by U.S. Mail, a letter from you requesting copies of records that you believe may be in the legal custody or control of the Legislative Department of the Nevada State Government. On April 4, 2022, the LCB received, by U.S. Mail, another letter from you, addressed to the attention of the LCB's Publications Unit, again requesting copies of those records. This letter, which has been prepared by the Legal Division of the LCB, serves as the written response to your requests.¹

In your requests, you ask for copies of certain pages from Volume 1 of the "master copy" of the 1957 Nevada Revised Statutes (NRS), which you believe may be in the legal custody or control of the LCB. In particular, you state your belief that the former statute revision commission was required to keep the "master copy" of the 1957 Nevada Revised Statutes. You also state your belief that the LCB was required to take possession and keep such "master copy" of the 1957 Nevada Revised Statutes when the Legislature abolished the former statute revision commission in 1963 and transferred its powers and duties to the LCB.

For the reasons explained in the legal discussion below, the only "master copy" of Nevada Revised Statutes is the most recent copy of Nevada Revised Statutes as prepared, supplemented and certified by the Legislative Counsel on September 29, 2021, pursuant to NRS Chapter 220. Certificates of the Legislative Counsel, NRS Vol. 1, at XIII (2021). Consequently, in your requests, you are asking for a historical or archival copy of the 1957 Nevada Revised Statutes. However, the LCB does not have legal custody or control of a historical or archival copy of the 1957 Nevada Revised Statutes.

¹ The LCB and its Legal Division are part of the Legislative Department under NRS Title 17. NRS 218F.100. The Legal Division is the legal counsel and legal adviser on all matters arising within the Legislative Department. NRS 218F.100 & 218F.700-218F.720.

After a reasonable search, in good faith, of its records, the LCB has determined that it has legal custody or control of a historical or archival copy of the 1965 Nevada Revised Statutes, but the LCB does not have legal custody or control of any historical or archival copies of Nevada Revised Statutes from any years prior to 1965. Therefore, in response to your requests, the LCB has enclosed copies of the following pages from Volume 1 of the 1965 Nevada Revised Statutes: (1) pages I-XXI; (2) Table of Titles of NRS; (3) Table of Titles and Chapters of NRS; and (4) Chapter 1 of NRS.

Finally, the Nevada Division of State Library, Archives and Public Records of the Department of Administration preserves and maintains various archival materials of historical value. See NRS Chapter 378 (2021). You may contact the Division to determine whether it has legal custody or control of a historical or archival copy of the 1957 Nevada Revised Statutes. You may contact the Division at the following address:

Nevada State Archives
100 N. Stewart Street
Carson City NV 89701

DISCUSSION

In 1951, the Legislature created the “commission for revision and compilation of Nevada laws.” Senate Bill No. 182, 1951 Nev. Stat., ch. 304, § 1, at 470. The Legislature directed the commission to prepare a complete revision and compilation of the laws of the State of Nevada of general application, to be known as “Revised Laws of Nevada.” Id. § 2, at 470. In addition, the Legislature provided that a “master copy” of Revised Laws of Nevada “shall be kept in the office of the commission, and such master copy shall not be removed from said office except in the custody of a member of the commission.” Id. § 4, at 471. The Legislature also provided that:

Upon the completion of “Revised Laws of Nevada,,” the commission is authorized and directed to prepare and have printed **such replacement and supplementary pages for such laws**, as may from time to time be necessary. In any event, said commission shall prepare the **replacement and supplementary pages** made necessary by the sessions of the legislature, as soon as possible after each such session. **The intent of this section is that such “Revised Laws” shall be kept current insofar as may be possible.**

Id. § 12, at 472 (emphasis added).

In 1953, the Legislature renamed the commission as the “statute revision commission.” Senate Bill No. 188, 1953 Nev. Stat., ch. 280, § 2, at 388. The Legislature directed the commission to prepare a complete revision and compilation of “the laws of the State of Nevada of general application,” to be known as “Nevada Revised Statutes.” Id. § 3, at 388. In addition, the Legislature provided that a “master copy” of Nevada Revised Statutes “shall be kept in the office of the commission, and such master copy shall not be removed from said office except in the

custody of a member of the commission or the director thereof.” Id. § 5, at 389. The Legislature also provided that Nevada Revised Statutes must contain “[t]he laws of this state of general application.” Id. § 3, at 388-89. Finally, the Legislature provided that:

Upon the completion of Nevada Revised Statutes,....., the commission is authorized and directed to prepare and have printed or reproduced **such replacement and supplementary pages for such laws** as may from time to time be necessary. In any event, said commission shall prepare the **replacement and supplementary pages** made necessary by the sessions of the legislature as soon as possible after each such session. **The intent of this section is that such Nevada Revised Statutes shall be kept current insofar as may be possible.**

Id. § 10, at 390 (emphasis added).

In 1957, pursuant to the Legislature’s directions, the statute revision commission presented the Legislature with a complete revision and compilation of the laws of the State of Nevada of general application, to be known as “Nevada Revised Statutes.” Legislative Counsel’s Preface, NRS Vol. 1, at XVII-XVIII (2021). The Legislature adopted and enacted Nevada Revised Statutes as the statute laws of the State of Nevada, providing that “Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.” Senate Bill No. 2, 1957 Nev. Stat., ch. 2, § 1, at 1.

In addition, the Legislature provided that a “master copy” of Nevada Revised Statutes “shall be kept in the office of the commission, and the master copy shall not be removed from the office except in the custody of a member of the commission or the director thereof.” Senate Bill No. 3, 1957 Nev. Stat., ch. 3, § 3, at 5. The Legislature also provided that Nevada Revised Statutes must contain “the laws of the State of Nevada of general application.” Id. § 2, at 4. Finally, the Legislature provided that:

1. Upon the completion of Nevada Revised Statutes, the commission is authorized and directed to prepare and have printed or reproduced **such replacement and supplementary pages for such laws** as may, from time to time, be necessary. In any event, the commission shall prepare **replacement and supplementary pages** made necessary by the sessions of the legislature as soon as possible after each session.
- ★2. **The intent of this section is that Nevada Revised Statutes shall be kept current insofar as may be possible.** To that end, the provisions of this chapter and, in particular, NRS 220.120 shall be applicable to the preparation and printing or reproduction of such replacement and supplementary pages.

Id. § 4, at 5 (emphasis added).

In 1963, the Legislature abolished the statute revision commission and transferred its powers and duties to the LCB. Senate Bill No. 24, 1963 Nev. Stat., ch. 403, §§ 1-62, at 1011-31. In addition, the Legislature provided that a “master copy” of Nevada Revised Statutes “shall be kept

in the office of the legislative counsel, and the master copy shall not be removed from the office except in the custody of the legislative counsel.” Id. § 34, at 1023. The Legislature also provided that Nevada Revised Statutes must contain “[t]he laws of this state of general application.” Id. § 32, at 1022. Finally, the Legislature provided that:

1. Upon the completion of Nevada Revised Statutes the legislative counsel is authorized and directed to prepare and have printed or reproduced **such replacement and supplementary pages for such laws** as may, from time to time, be necessary. In any event, the legislative counsel shall prepare **replacement and supplementary pages** made necessary by the sessions of the legislature as soon as possible after each session.

2. The intent of this section is that Nevada Revised Statutes shall be kept current insofar as may be possible. To that end, the provisions of this chapter and, in particular, NRS 220.120 shall be applicable to the preparation and printing or reproduction of such replacement and supplementary pages.

Id. § 37, at 1024 (emphasis added).

Under current Nevada law, a “master copy” of Nevada Revised Statutes “must be kept in the office of the Legislative Counsel, and the master copy must not be removed from the office except in the custody of the Legislative Counsel.” NRS 220.130 (2021). In addition, current Nevada law provides that Nevada Revised Statutes must contain “[t]he laws of this state of general application.” NRS 220.110 (2021). Finally, current Nevada law provides that:

1. Upon the completion of Nevada Revised Statutes with annotations, the Legislative Counsel shall prepare and have printed or reproduced **such replacement and supplementary pages for such laws** and annotations as may, from time to time, be necessary and may create or cause to be created reproductions of the **replacement and supplementary pages**, alone or in combination with any other legal publications, on electronic discs or any other available medium. In any event, the Legislative Counsel shall prepare **replacement and supplementary pages** made necessary by a regular or special session as soon as possible after each such session.

2. The intent of this section is that Nevada Revised Statutes be kept current insofar as may be possible. To that end, the provisions of this chapter, and in particular NRS 220.120, apply to the preparation and printing or reproduction of such replacement and supplementary pages.

NRS 220.160 (2021) (emphasis added).

Based on the plain language of Nevada law, the “master copy” of Nevada Revised Statutes must contain the laws of this state of general application, and such replacement and supplementary pages for such laws as are made necessary by each legislative session, with the intent that Nevada Revised Statutes must be kept current insofar as may be possible after each legislative session. As a result, the only “master copy” of Nevada Revised Statutes is the most recent copy of Nevada

Justin O. Langford
April 7, 2022
Page 5

Revised Statutes as prepared, supplemented and certified by the Legislative Counsel on September 29, 2021, pursuant to NRS Chapter 220. Certificates of the Legislative Counsel, NRS Vol. 1, at XIII (2021). Consequently, in your requests, you are asking for a historical or archival copy of the 1957 Nevada Revised Statutes. However, the LCB does not have legal custody or control of a historical or archival copy of the 1957 Nevada Revised Statutes.

After a reasonable search, in good faith, of its records, the LCB has determined that it has legal custody or control of a historical or archival copy of the 1965 Nevada Revised Statutes, but the LCB does not have legal custody or control of any historical or archival copies of Nevada Revised Statutes from any years prior to 1965. Therefore, in response to your requests, the LCB has enclosed copies of the following pages from Volume 1 of the 1965 Nevada Revised Statutes: (1) pages I-XXI; (2) Table of Titles of NRS; (3) Table of Titles and Chapters of NRS; and (4) Chapter 1 of NRS.

Finally, the Nevada Division of State Library, Archives and Public Records of the Department of Administration preserves and maintains various archival materials of historical value. See NRS Chapter 378. You may contact the Division to determine whether it has legal custody or control of a historical or archival copy of the 1957 Nevada Revised Statutes. You may contact the Division at the following address:

Nevada State Archives
100 N. Stewart Street
Carson City NV 89701

Justin A. Langford-1158546
Lovelock Correctional Center (cc)
1200 Prison Road
Lovelock, Nev 89419

LOVELOCK CORRECTIONAL CENTER



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Las Vegas, Nev. 89155

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Heather Lamin
CLERK OF THE COURT

1 NOTE

2 Justin Odell Langford-1159546

3 1CC, 1200 Prison Road

4 Lovelock, Nev. 89419

5

6 IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF CLARK

8 * * * * *

9 Justin Odell Langford, Case No.: A-18-784811-W

10 Petitioner, C-14-296556-1

11 vs. Dept No: II

12 Warden Tim Garrett,

13 (Real Party In Interest) REQUEST FOR JUDICIAL NOTICE

14 Respondent AND ACTION TO BE TAKEN

15

16 Petitioner filed a new Petition on Oct. 25, 2022
17 and to date no orders have been issued a order for
18 the Respondent to Respond ~~has been~~ ^{Needs to be} issued. Also I'm
19 also proceeding Pro per in both case #'s the Court is
20 required to send me both written orders and court
21 minutes, in which it has not been doing. Also Monique
22 A. McNeill has not been my attorney since 2017 so
23 please quite sending here what your required to send
to me.

Date: Nov 29TH, 2022

Respect fully Submitted.

Wade Lamin
Legal Assistant/Paralegal

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DEC 12 2022

CLERK OF THE COURT

Justin O. Langford-1159546
LCC, 1200 Prison Road
Lovelock, Nev. 89419

**INMATE LEGAL
MAIL CONFIDENTIAL**

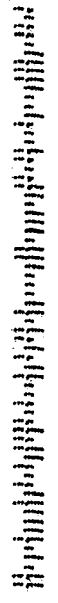
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Andrew S. Levin
CLERK OF THE COURT

1 CONFIDENTIAL

2 Justin O'Neil Langford, Defendant

3 LLC, et al. Plaintiff

4 Loveland, New York

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEW YORK

6 IN AND FOR THE COUNTY OF ALBANY

7 * * * * *

8 Justin O'Neil Langford,

Case No. 11-CV-2018-117

9 Petitioner,

Deputy Clerk

10 vs.

11 State of New York

12 Tim George H. Winters,

13 Defendant

14 Respondent,

(Answering Petitioner's Motion)

15 PROVISION FOR JUDICIAL REVIEW OF PETITION.

16 Petitioner hereby certifies that the proper, relevant facts have
17 been set forth and that, moving the Court to take action on the pending
18 Petition to Void of Hearing Cases and/or Hearings, in accordance with
19 the statutory and discretionary authorities below, this motion is bona
20 fide and proper and that the Court should grant the relief requested.

21 The following points are set forth:

22 POINTS TO BE CONSIDERED

23 One motion for Void of Hearing Cases was filed on 01/25/2023.
24 This motion was filed on 01/25/2023. However, the Court has yet
25 to take any action thereon as contemplated by NYS § 51.74(1) & 51.74(2),
26 which require, inter alia, that the "petition must be examined

1 expeditiously, NRS 31.710, followed by a direction to Respondent to
2 respond or answer the petition, NRS 31.710(1)(b). This requirement
3 of speed is not only a statutory command, but is recognized by
4 the Courts towards the effective and prompt adjudication of
5 habeas actions and the serious questions the present, *Carafas v.*
6 *LaVullee*, 311 U.S. 41, 55 S.Ct. 1556, 1560 (1935), see also *Payton v. Rouse*,
7 *341 U.S. 57, 60 S.Ct. 1547, 1552 (1953)* (habeas requires a "prompt
8 adjudication," *Smith v. Idaho*, 392 F.2d 389, 52 (9th Cir. 1968)) (C
9 prompt resolution of prisoners' claims is a principle function of
10 habeas).

11 This Court is therefore moved to expeditiously order Respondents
12 to file a response or answer and a return to the instant petition so
13 as to satisfy the authorities above, and as justice requires.

14 CONCLUSION

15 This Court should promptly take judicial action on the pending
16 petition in accordance with NRS 31.710 & 31.715.

17

18 Dated this ^{17TH} ~~26TH~~ day of February, 2023

19

Justin Elliott Long

20

Justin Elliott Long #11591576

21

Petitioner/Paralegal

22

23

24

25

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