

IN THE SUPREME COURT OF THE STATE OF NEVADA
REV. MATTHEW TRAVIS HOUSTON, CHD,
Plaintiff-in-Error/Petitioner-Appellant,
VS.
DANIEL L. SCHWARTZ, ESQ ET AL,
Defendants-Respondents.

Supreme Court No. 87670
District Court Case No. A858580

"de novo hearing requested"
PETITION TO ESTABLISH FACTUAL INNOCENCE

EMERGENCY RESPONSE TO NOTICE OF REJECTION OF DEFICIENT BRIEF AND
STATEMENT OF FACTS: (see attached ARGUMENT)

"ORAL ARGUMENT REQUESTED"

"Plaintiff-in-Error/
Petitioner-Appellant"

1 On July 14, 2021, MATTHEW TRAVIS HOUSTON (hereinafter
2 was abducted from his hotel room at the Best Western located outside of state at 3041
3 St. Rose Parkway in Henderson, Nevada, as he was not served with any sort of
4 summons or WARRANT, nor was told or read that he had any kind of rights. This
5 false arrest prevented Petitioner-Appellant from attending his appointment the very
6 next day at Nevada Retina Specialists, with Dr. Tyson Ward on July 15, 2021, while
7 this continued imprisonment of his person also prevented him from attending his medical
8 disability rating in Reno, Nevada, on August 15, 2021, with Dr. Dwagleri. Both appointments
9 of which had been scheduled by the abductors, SEDAWICK's Dianne Ferrante, and her
10 alleged supervisor, Rosemarie McMorris-Alexander, as was the booking of his room.
11

12 The Petitioner-Appellant's attempt at release from CDC was intended so that he could
13 search for, and hopefully, retrieve his service animals. However, the now-dismissed counsel, J. Wood
14 and Benard Little, provided misinformation regarding the lack of a directly related "City Jail
15 Detainer Hold". Counsel had told Petitioner-Appellant, all the while coercing his client into a
16 potential release from custody, that he did not see a detainer hold - when, in fact, there was.
17 This coercion of the client by his previous representation created a second double-jeopardy -
18 in LAS VEGAS MUNICIPAL COURT #C1248374A + #C1237802A; with the first being by J. Wood

19, in the EIGHTH JUDICIAL DISTRICT COURT 21-CR-019840 + 21-CR-033713. A. Goldstein NEVER visited
20 Mr. Houston. These traumatic events are a cruel and unusual punishment being inflicted upon an abused

21 and innocent man, who was forced into an involuntary relocation, with unnecessary hardships
22 causing the eviction of his law office located at 435 South Lion Street #927, in Iowa
23 City, Iowa, irreparable property damage and the destruction of his K-9(s).

24 Due to crimes BOTH 2:802 and criminal, not to mention the willful omissions of Rosemarie
25 McMorris-Alexander and Dianne Ferrante, SEDAWICK and the prosecutions' most unlawful use
26 of overreaching tactics in their exploitation of the innocent man has put the Petitioner-Appellant

27 into an unmanageable state of duress, homelessness, and extensive incarceration; not to
28 mention the fact that Mr. Houston was human trafficked into
29 NDOC after being kidnapped from his home in the State
of Iowa by the accomplice of the Defendant Andrea Epping.

30 WHEREFORE, the innocent man prays for expeditious relief upon this
24-DC-440 06 FEB 2024

1 ARGUMENT

2 I. THE STATUTE FOR A PETITION TO ESTABLISH FACTUAL
3 INNOCENCE CONTROLS THE REQUIRED FINDINGS AND BRIEFING
4 SCHEDULE

5 According to NRS 34.920, factual innocence means a defendant did not do the
6 following:

- 7 1. Engage in the conduct for which he or she was convicted;
8 2. Engage in conduct constituting a lesser included or inchoate
9 offense of the crime for which he or she was convicted;
10 3. Commit any other crime arising out of or reasonably connected
11 to the facts supporting the indictment or information upon which
12 he or she was convicted; and
13 4. Commit the conduct charged by the State under any theory of
14 criminal liability alleged in the indictment or information.

15 Petitioner entitles his filing as a Petition for a Writ to Establish Factual Innocence. NRS
16 34.960 governs Petitions to Establish Factual Innocence. The statute dictates the duties
17 required of both a petitioner and the district court in resolving a Petition to Establish Factual
18 Innocence.

19 Pursuant to NRS 34.960(1) through (3):

20 1. At any time after the expiration of the period during which a
21 motion for a new trial based on newly discovered evidence may
22 be made pursuant to NRS 176.515, a person who has been
23 convicted of a felony may petition the district court in the county
24 in which the person was convicted for a hearing to establish the
25 factual innocence of the person based on newly discovered
26 evidence. A person who files a petition pursuant to this subsection
27 shall serve notice and a copy of the petition upon the prosecuting
28 agency.

29 2. A petition filed pursuant to subsection 1 must contain an
30 assertion of factual innocence under oath by the petitioner and
31 must aver, with supporting affidavits or other credible
32 documents, that:

33 (a) Newly discovered evidence exists that is specifically
34 identified and, if credible, establishes a bona fide issue of
35 factual innocence;

36 (b) The newly discovered evidence identified by the petitioner:

37 (1) Establishes innocence and is material to the case and the
38 determination of factual innocence;

39 (2) Is not merely cumulative of evidence that was known, is not
40 reliant solely upon recantation of testimony by a witness against
41 the petitioner and is not merely impeachment evidence; and

1 (3) Is distinguishable from any claims made in any previous petitions;

2 (c) If some or all of the newly discovered evidence alleged in the petition is a biological specimen, that a genetic marker analysis was performed pursuant to NRS 176.0918, 176.09183 and 176.09187 and the results were favorable to the petitioner; and

3 (d) When viewed with all other evidence in the case, regardless of whether such evidence was admitted during trial, the newly discovered evidence demonstrates the factual innocence of the petitioner.

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6 3. In addition to the requirements set forth in subsection 2, a petition filed pursuant to subsection 1 must also assert that:

7 (a) Neither the petitioner nor the petitioner's counsel knew of the newly discovered evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction petition, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

8 (b) A court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the newly discovered evidence.

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12 (emphasis added).

13 After a Petition to Establish Factual Innocence is filed, NRS 34.960(4) further requires:

14 4. The court shall review the petition and determine whether the petition satisfies the requirements of subsection 2. If the court determines that the petition:

15 (a) **Does not meet the requirements of subsection 2, the court shall dismiss the petition without prejudice, state the basis for the dismissal and send notice of the dismissal to the petitioner, the district attorney and the Attorney General.**

16 (b) Meets the requirements of subsection 2, the court shall determine whether the petition satisfies the requirements of subsection 3. If the court determines that the petition does not meet the requirements of subsection 3, the court may:

17 (1) Dismiss the petition without prejudice, state the basis for the dismissal and send notice of the dismissal to the petitioner, the district attorney and the Attorney General; or

18 (2) Waive the requirements of subsection 3 if the court finds the petition should proceed to a hearing and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

19 (I) Was not discovered by the petitioner or the petitioner's counsel;

20 (II) Is material upon the issue of factual innocence; and

21 (III) Has never been presented to a court.

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26 (emphasis added).

27 Additionally, pursuant to NRS 34.960(5) and (6):

28 5. Any second or subsequent petition filed by a person must be dismissed if the court determines that the petition fails to identify

1 new or different evidence in support of the factual innocence claim
2 or, if new and different grounds are alleged, the court finds that
3 the failure of the petitioner to assert those grounds in a prior
4 petition filed pursuant to this section constituted an abuse of the
5 writ.

6 **6. The court shall provide a written explanation of its order
7 to dismiss or not to dismiss the petition based on the
8 requirements set forth in subsections 2 and 3.**

9 (emphasis added).

10 If a Petition to Establish Factual Innocence is not summarily dismissed, NRS 34.970
11 governs the requirements of an order to respond to a Petition to Establish Factual Innocence
12 and the timelines required in resolving the Petition:

13 **1. If the court does not dismiss a petition after reviewing the
14 petition in accordance with NRS 34.960, the court shall order
15 the district attorney or the Attorney General to file a response
16 to the petition. The court's order must:**

17 **(a) Specify which claims identified in the petition warrant a
18 response from the district attorney or the Attorney General;
19 and**

20 **(b) Specify which newly discovered evidence identified in the
21 petition, if credible, might establish a bona fide issue of factual
22 innocence.**

23 **2. The district attorney or the Attorney General shall, not
24 later than 120 days after receipt of the court's order requiring
25 a response, or within any additional period the court allows,
26 respond to the petition and serve a copy upon the petitioner and, if
27 the district attorney is responding to the petition, the Attorney
28 General.**

3. Not later than 30 days after the date the district attorney or the
Attorney General responds to the petition, the petitioner may reply
to the response. Not later than 30 days after the expiration of the
period during which the petitioner may reply to the response, the
court shall consider the petition, any response by the district
attorney or the Attorney General and any reply by the petitioner.
If the court determines that the petition meets the requirements of
NRS 34.960 and that there is a bona fide issue of factual innocence
regarding the charges of which the petitioner was convicted, the
court shall order a hearing on the petition. If the court does not
make such a determination, the court shall enter an order denying
the petition. For the purposes of this subsection, a bona fide issue
of factual innocence does not exist if the petitioner is merely
relitigating facts, issues or evidence presented in a previous
proceeding or if the petitioner is unable to identify with sufficient
specificity the nature and reliability of the newly discovered
evidence that establishes the factual innocence of the petitioner.
Unless stipulated to by the parties, the court may not grant a
hearing on the petition during any period in which criminal

1 proceedings in the matter are pending before any trial or appellate
2 court.

3 4. If the court grants a hearing on the petition, the hearing must
4 be held and the final order must be entered not later than 150 days
5 after the expiration of the period during which the petitioner may
6 reply to the response to the petition by the district attorney or the
7 Attorney General pursuant to subsection 3 unless the court
8 determines that additional time is required for good cause shown.

9 ...
10 **8. The court shall provide a written explanation of its
11 determination that the petitioner proved or failed to prove his
12 or her factual innocence by clear and convincing evidence.**

13 (emphasis added).

14 Accordingly, this Court is required to review the instant Petition to Establish Factual
15 Innocence to determine whether Petitioner has filed the Petition to Establish Factual Innocence
16 properly pursuant to NRS 34.960(2)-(3) and whether Petitioner has presented any "newly
17 discovered evidence" within the meaning on NRS 34.930 that is not cumulative of evidence
18 presented in prior Petitions, is not solely reliant upon recantation of a witness, and when,
19 viewed in light of the evidence as a whole (including Petitioner's guilty plea itself)
20 demonstrates the factual innocence of Petitioner. NRS 34.960; NRS 34.970.

21 After review, this Court must issue a written order explaining its decision to either
dismiss or not to dismiss the Petition. NRS 34.960(6). If the Petition is dismissed, nothing
further is necessary. If the Petition is not dismissed, the Court must issue an order to respond
to the Petition identifying the specific claims and evidence which the Court believes warrant
a response and give the State no less than one hundred twenty (120) days to respond. NRS
34.970.

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REV. MATTHEW TRAVIS HOUSTON, LTD.
Plaintiff-in-Error / Petitioner-Appellant
V.
DANIEL L. SCHWARTZ ESQ. ETAL.
DEFENDANTS-RESPONDENTS

NO. 87670
DC CASE # ABS8580

EMERGENCY NOTICE TO CEASE AND DESIST
AND NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM

"de novo hearings, oral argument and jury trials demanded"

NAME: REV. Matthew Travis Houston @ ABA I.D. NUMBER: 04662784

INSTITUTION: OF WRONGFUL CONVICTION UNIT #: OF THE VICTIM

GRIEVANCE #: A758861 in ESDC GRIEVANCE LEVEL: EXHAUSTED

GRIEVANT'S STATEMENT CONTINUATION: PG. 1 OF 1
Dan L. Schwartz began sending the death threats in 2019 @ THRCC -
TO: LINDA MARIE BELL AND MARIA TORRES-ALVARADO,

Hello nice ladies. I only know miss Linda from
2017-2018 and the first time Dan Schwartz and
his flunkies had me human trafficked, drugged and
other unpleasant and traumatic experiences both before
and after the night of my concert at my parking
lot party next to Jason, on one October 2017.
I dont know you Maria, but hey, please do me
a favor: Dan Schwartz has been stalking me
and harassing me thru legal mail thru both CDC
and NDOC, the first time @ NDOC was with bent
Porter. Charges have been filed and I do not
want him contacting me thru the Supreme Court or
otherwise. Him and his joke of a law firm have to
all get their own lawyers and stop filing pro se
because it's make me suicidal. The U.S. Marshall's

can deal with him, and it is your duty to notify
law enforcement and please
tell him and his law firm to cease and desist -
I appreciate your help in safety and security,
The Innocent Victim of Crime -

M - T - H - ~~X~~

DOC - 3097 (01/02)

Plus I have a good reason to suspect it was Dan who put the bed bugs into Las Vegas Recovery Center in 2018 because he lied to Malisa De La Garza when calling me a meth addict in her court. I've never done meth in my life. See C323614

1 (3) Is distinguishable from any claims made in any previous petitions;

2 (c) If some or all of the newly discovered evidence alleged in the petition is a biological specimen, that a genetic marker analysis was performed pursuant to NRS 176.0918, 176.09183 and 176.09187 and the results were favorable to the petitioner; and

3 (d) When viewed with all other evidence in the case, regardless of whether such evidence was admitted during trial, the newly discovered evidence demonstrates the factual innocence of the petitioner.

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9 (b) A court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the newly discovered evidence.

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CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this EMERGENCY NOTICE TO CEASE AND DESIST, PETITION TO ESTABLISH FACTUAL completed informal brief form upon all parties to the appeal as follows: INNOCENCE, EMERGENCY RESPONSE TO NOTICE OF REJECTION OF DEFICIENT BRIEF,

By personally serving it upon him/her; or STATEMENT OF FACTS AND ARGUMENT

By mailing it by first-class mail with sufficient postage prepaid ~~to~~ ex parte. See Gluth v. Kangas, supra.
the following address(es) (list names and address(es) of parties served):

Law clerk Maria Torres-Alvarado and
Justice Linda Marie Bell (ex-Chief Judge)
Yea, so anyways Linda ma'im

please if you and Maria can please enter
the notice to cease and desist on the
docket and provide me proof of
service so I dont kill myself that
would be humane if you to notify law
enforcement and conduct yourselves accordingly.
DATED this 06 day of February, 2024.

Matthew Travis Houston

Signature of ~~Appellant~~ ~~to~~
the Innocent Man,
Rev. Matthew Travis Houston

Print Name of Appellant
ABA Member ID #04662784
NDSP - Po Box 650

Address

Indian Springs, NV 89070

City/State/Zip

563-321-3084

Telephone