

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Aug 28 2023 03:55 PM
Elizabeth A. Brown
Clerk of Supreme Court

JUSTIN ODELL LANGFORD,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: A-18-784811-W

Docket No: 87149

**RECORD ON APPEAL
VOLUME
4**

ATTORNEY FOR APPELLANT
JUSTIN LANGFORD #1159546,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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

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1 CNND

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

4
5 Justin Langford, Plaintiff(s)

A-18-784811-W

6 vs.

Department 2

7
8 Warden Renee Baker, Defendant(s)

9
10 **CLERK'S NOTICE OF NONCONFORMING DOCUMENT**

11
12 Pursuant to Rule 8(b)(2) of the Nevada Electronic Filing and Conversion Rules, notice is
13 hereby provided that the following electronically filed document does not conform to the
14 applicable filing requirements:

15		Motion for Judicial Action on
16	Title of Nonconforming Document:	Petition
17	Party Submitting Document for Filing:	Justin Langford
18	Date and Time Submitted for Electronic	
19	Filing:	2-1-2023 at

20 Reason for Nonconformity Determination:

- 21 The document filed to commence an action is not a complaint, petition,
22 application, or other document that initiates a civil action. *See* Rule 3 of the
23 Nevada Rules of Civil Procedure. In accordance with Administrative Order 19-5,
24 the submitted document is stricken from the record, this case has been closed and
25 designated as filed in error, and any submitted filing fee has been returned to the
26 filing party.

1 The document initiated a new civil action and a cover sheet was not submitted as
2 required by NRS 3.275.

3 The document was not signed by the submitting party or counsel for said party.
4

5 The document filed was a court order that did not contain the signature of a
6 judicial officer. In accordance with Administrative Order 19-5, the submitted
7 order has been furnished to the department to which this case is assigned.

8 Motion does not have a hearing designation per Rule 2.20(b). Motions must
9 include designation "Hearing Requested" or "Hearing Not Requested" in the
10 caption of the first page directly below the Case and Department Number.

11 Pursuant to Rule 8(b)(2) of the Nevada Electronic Filing and Conversion Rules, a
12 nonconforming document may be cured by submitting a conforming document. All documents
13 submitted for this purpose must use filing code "**Conforming Filing – CONFILE.**" Court filing
14 fees will not be assessed for submitting the conforming document. Processing and convenience
15 fees may still apply.
16

17
18 Dated this: 1st day of February, 2023
19

20 By: /s/ Michelle McCarthy
21 _____

22 Deputy District Court Clerk
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CERTIFICATE OF SERVICE

I hereby certify that on February 01, 2023, I concurrently filed and served a copy of the foregoing Clerk’s Notice of Nonconforming Document, on the party that submitted the nonconforming document, via the Eighth Judicial District Court’s Electronic Filing and Service System.

By: /s/ Michelle McCarthy

Deputy District Court Clerk



1
2 CNNDCA

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

6 Justin Langford, Plaintiff(s) A-18-784811-W
7 vs.
8 Warden Renee Baker, Defendant(s) Department 2

9 **CLERK'S NOTICE OF CURATIVE ACTION**

10 In accordance with NEFCR 8(b)(2), notice is hereby provided that the Clerk's Office has
11 replaced the following nonconforming document(s) with conforming document(s):

12 Title of Nonconforming Document:	<u>Motion for Judicial Action on</u> <u>Petition</u>
13 Party Submitting Document for Filing:	<u>Justin Langford</u>
14 Date and Time Submitted for Electronic Filing:	<u>02/01/2023</u>

15 The conforming document(s) have been filed with a time and date stamp which match the
16 time and date that the nonconforming document(s) were submitted for electronic filing.

17
18 Dated this: 24th day of February, 2023.

19 By: /s/ Michelle McCarthy
20 Deputy District Court Clerk

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
2/24/2023 2:53 PM
Steven D. Grierson
CLERK OF THE COURT



Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 2

NOTICE OF HEARING

Please be advised that the Plaintiffs-Motion for Judicial Action on Petition in the above-entitled matter is set for hearing as follows:

Date: March 27, 2023

Time: 9:30 AM

Location: RJC Courtroom 12B
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



1 **RSPN**
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

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

9
10 **JUSTIN ODELL LANGFORD,**
11 **#2748452**

11 Petitioner,

12 -vs-

13 THE STATE OF NEVADA,

14 Respondent.

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

DEPT NO: **II**

15
16 **STATE'S RESPONSE TO DEFENDANT'S PETITION**

17 **FOR WRIT OF HABEAS CORPUS**

18 DATE OF HEARING: **MAY 31, 2023**
19 TIME OF HEARING: **9:30 AM**

20 The State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney,
21 through KAREN MISHLER, Chief Deputy District Attorney, hereby submits the attached
22 Points and Authorities in this State's Response to Defendant's Petition for Writ of Habeas
23 Corpus.

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

27 //

28 //

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

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

9 After several continuances at the Petitioner’s request, on March 7, 2016, a jury trial
10 convened and lasted nine days. On March 17, 2016, the jury returned a guilty verdict as to
11 Count 2, and not guilty as to all other Counts. On May 10, 2016, Petitioner was sentenced to
12 Life with a possibility of parole after a term of 10 years have been served in the Nevada
13 Department of Corrections (“NDOC”). Petitioner received eight hundred forty-one (841) days
14 credit for time served. The Judgment 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 in Docket No. 70536.
17 Remittitur issued July 24, 2017. C2

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. On
25 August 10, 2017, the Court denied Petitioner’s Motion for Sentence Reduction, granted
26 Petitioner’s Motion for Production of Documents, Papers, Pleadings, and Tangible Property
27 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 at
6 State's Expense, a Motion to Compel Court Orders, and a Motion to Reconsider Motions for
7 Correction of Illegal Sentence and Sentence Reduction. The State responded to the Motion to
8 Reconsider Motions for Correction of Illegal Sentence and Sentence Reduction on October
9 30, 2017. On October 31, 2017, the Court denied all of Petitioner's Motions, and the order
10 was filed on November 7, 2017. On November 27, 2017, Petitioner filed a Motion for
11 Ancillary Services and a Motion for Transcripts and Other Court Documents and State's
12 Expense. The State filed its Opposition to Petitioner's Motion for Ancillary Services on
13 December 13, 2017. The Court denied Petitioner's Motions on December 19, 2017, and the
14 order was filed on December 29, 2017.

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

1 day, February 20, 2018.

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

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

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. Petitioner appealed and the Nevada Supreme Court affirmed on
20 April 12, 2019, in Docket No. 77262.

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

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

27 //

28 //

1 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted
2 the Motion on September 19, 2019, directing the Clerk's Office to file an Amended Judgment
3 of Conviction with no change to the language, but amending the nature of the closure of the
4 case to reflect that the case was closed after a jury-trial conviction. The Amended Judgment
5 of Conviction was filed on September 23, 2019.

6 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
7 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The court
8 granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight hundred
9 fifty-nine (859) days credit for time served. The Second Amended Judgment of Conviction
10 was filed on October 23, 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. The
19 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.

21 On February 18, 2020, Ms. McNeill informed the court she had provided Petitioner
22 with his file on four (4) different occasions. The court then denied Petitioner's Motion to Hold
23 Monique McNeill, Esq., Attorney of Record in Contempt for Failing to Forward Copy of Case
24 File.

25 On February 25, 2020, Petitioner filed a Motion to Correct Illegal Sentence. The State
26 filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10, 2020. On
27 March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the district court
28 denied Petitioner's Motion. The Order was filed on March 26, 2020.

1 On March 30, 2020, Petitioner filed a Notice of Appeal, appealing the denial of
2 Petitioner's Motion to Correct Illegal Sentence. On April 24, 2020, the Nevada Supreme Court
3 dismissed Petitioner's appeal because Petitioner had no right to appeal the district court's
4 decision in Docket No. 80972-COA. Remittitur issued on May 21, 2020.

5 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
6 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
7 2020.

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

17 On June 9, 2021, Petitioner filed a Motion to Correct Illegal Sentence. The State
18 responded June 16, 2021. Petitioner filed a Preemptive Reply to State's Opposition on June
19 22, 2021. The Motion was denied June 30, 2021. The Findings of Fact, Conclusions of Law
20 and Order was filed July 22, 2021.

21 On October 25, 2022, Petitioner filed the instant Petition for Writ of Habeas Corpus.
22 The State responds as follows.

23 **STATEMENT OF THE FACTS**

24 On June 21, 2014, the minor victim H.H. (DOB: 06/22/2001) disclosed that she had
25 been sexually abused by her stepfather, Defendant. The abuse began when she was eight (8)
26 years old. While at Defendant's residence in Searchlight, Nevada, Defendant would call H.H.
27 into his bedroom and have H.H. take off her clothes. Defendant would make H.H. lie on the
28 bed and he would rub baby oil on H.H's legs. Defendant then placed his private parts in

1 between her legs and rubbed himself back and forth until he ejaculated. H.H. stated that
2 Defendant placed a white hand towel on the bed and had the victim lie on the towel during the
3 molestation incidents. He would then use the towel to clean up the baby oil. The abuse
4 continued until the victim reported the abuse in January 2014.

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

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

17 ARGUMENT

18 **I. THE PETITION IS PROCEDURALLY BARRED**

19 **a. The Petition is Time-Barred**

20 The mandatory provision of NRS 34.726(1) states:

21 Unless there is good cause shown for delay, a petition that challenges
22 the validity of a judgment or sentence must be filed *within 1 year after*
23 *entry of the judgment of conviction* or, if an appeal has been taken
24 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 ...

25 (emphasis added).

26 Thus, a petition challenging a judgment of conviction's validity must be filed within
27 one year of the judgment or within one year of the remittitur, unless there is good cause to
28 excuse delay. NRS 34.726(1). The Nevada Supreme Court has held that NRS 34.726 should

1 be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528
2 (2001). The one-year time bar prescribed by NRS 34.726 begins to run from the date the
3 judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson
4 v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v. State, 117
5 Nev. 860, 873, 34 P.3d 519, 528 (2001) (holding that NRS 34.726 should be construed by its
6 plain meaning).

7 The one-year time limit for preparing petitions for post-conviction relief under NRS
8 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002),
9 the Nevada Supreme Court affirmed the rejection of a habeas petition that was filed two days
10 late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1).
11 Gonzales reiterated the importance of filing the petition with the district court within the one-
12 year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 118 Nev. at
13 593, 590 P.3d at 902. The one-year time bar is therefore strictly construed. In contrast with the
14 short amount of time to file a notice of appeal, a prisoner has an ample full year to file a post-
15 conviction habeas petition, so there is no injustice in a strict application of NRS 34.726(1). Id.
16 at 593, 53 P.3d at 903.

17 Here, remittitur from Petitioner’s direct appeal was issued on July 24, 2017. Thus,
18 under NRS 34.726 Petitioner had until July 24, 2018 to file a timely habeas petition. The
19 instant Petition was filed on October 25, 2022—more than four years after this statutory
20 deadline. Due to this failure to timely raise his habeas claims, the Petition *must* be denied
21 absent a showing of good cause and prejudice. NRS 34.726(1).

22 **b. The Petition is Successive and an Abuse of the Writ**

23 The Petition is also procedurally barred because it is successive. NRS 34.810(2) reads:

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

//

//

1 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
2 different grounds for relief and the grounds have already been decided on the merits or that
3 allege new or different grounds but a judge or justice finds that the petitioner's failure to assert
4 those grounds in a prior petition would constitute an abuse of the writ. Second or successive
5 petitions will only be decided on the merits if the petitioner can show good cause and
6 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

7 The Nevada Supreme Court has stated: "Without such limitations on the availability of
8 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
9 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
10 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
11 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
12 a careful review of the record, successive petitions may be dismissed based solely on the face
13 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
14 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
15 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).
16 Here, Petitioner has previously filed three postconviction petitions for writ of habeas corpus—
17 on April 24, 2018, November 19, 2018, and February 9, 2021. He has also filed numerous
18 other pleadings challenging the validity of his conviction. The claims he raises in the instant
19 Petition—that his conviction is invalid because the entirety of the Nevada Revised Statutes is
20 invalid—could have been raised in any of these prior petitions or pleadings. Accordingly, the
21 Petition is an abuse of the writ and is procedurally barred under NRS 34.810(2).

22 Additionally, as Petitioner could have raised his instant claim in a prior petition or on
23 direct appeal, this claim is waived pursuant to NRS 34.810(1)(b)(2). "A court must dismiss a
24 habeas petition if it presents claims that either were or could have been presented in an earlier
25 proceeding, unless the court finds both cause for failing to present the claims earlier or for
26 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-
27 47, 29 P.3d 498, 523 (2001). Accordingly, the Petition must be summarily denied in the
28 absence of a showing of good cause and prejudice. NRS 34.810(3).

1 **c. The Procedural Bars are Mandatory**

2 The Nevada Supreme Court has granted no discretion to the district courts regarding
3 whether to apply the statutory procedural bars. Instead, the Nevada Supreme Court has
4 emphatically and repeatedly stated that the procedural bars *must* be applied.

5 The district courts have *a duty* to consider whether post-conviction claims are
6 procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112
7 P.3d 1070, 1076 (2005). Riker held that the procedural bars “cannot be ignored when properly
8 raised by the State.” Id. at 233, 112 P.3d at 1075. Accord, State v. Huebler, 128 Nev. 192,
9 197, 275 P.3d 91, 94-95, footnote 2 (2012), cert. denied, 571 U.S. ___, 133 S.Ct. 988 (2013)
10 (“under the current statutory scheme the time bar in NRS 34.726 is *mandatory, not*
11 *discretionary*” (emphasis added)).

12 Even “a stipulation by the parties cannot empower a court to disregard the mandatory
13 procedural default rules.” State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003);
14 accord, Sullivan v. State, 120 Nev. 537, 540, footnote 6, 96 P.3d 761, 763-64, footnote 6
15 (2004) (concluding that a petition was improperly treated as timely and that a stipulation to
16 the petition’s timeliness was invalid). The Sullivan Court “expressly conclude[d] that the
17 district court should have denied [a] petition” because it was procedurally barred. Sullivan,
18 120 Nev. at 542, 96 P.3d at 765.

19 The district courts have zero discretion in applying the procedural bars because to allow
20 otherwise would undermine the finality of convictions. In holding that “[a]pplication of the
21 statutory procedural default rules to post-conviction habeas petitions is mandatory,” the Riker
22 Court noted:

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

26 Riker, 121 Nev. at 231, 112 P.3d at 1074.

27 Moreover, strict adherence to the procedural bars promotes the best interests of the
28 parties:

1 At some point, we must give finality to criminal cases. Should we allow
2 [petitioner's] post conviction relief proceeding to go forward, we would
3 encourage defendants to file groundless petitions for federal habeas corpus
4 relief, secure in the knowledge that a petition for post-conviction relief
5 remained indefinitely available to them. This situation would prejudice both
6 the accused and the State since the interests of both the petitioner and the
7 government are best served if post-conviction claims are raised while the
8 evidence is still fresh.

9 Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989) (citations omitted).

10 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO OVERCOME** 11 **THE PROCEDURAL BARS**

12 To avoid procedural default, under NRS 34.726, a defendant has the burden of pleading and
13 proving specific facts that demonstrate good cause for his failure to present his claim in earlier
14 proceedings or to otherwise comply with the statutory requirements, and that he will be unduly
15 prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden, 109 Nev. 952,
16 959–60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep't of Prisons, 104 Nev. 656, 659,
17 764 P.2d 1303, 1305 (1988). “A court *must* dismiss a habeas petition if it presents claims that
18 either were or could have been presented in an earlier proceeding, unless the court finds both
19 cause for failing to present the claims earlier or for raising them again and actual prejudice to
20 the petitioner.” Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001) (emphasis
21 added).

22 “To establish good cause, appellants must show that an impediment external to the
23 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
24 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
25 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. “A qualifying
26 impediment might be shown where the factual or legal basis for a claim was not reasonably
27 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003).
28 The Court continued, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81
P.3d at 526. Examples of good cause include interference by State officials and the previous
unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op. 19, 275 P.3d
91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault of the

1 petitioner. NRS 34.726(1)(a).

2 To avoid procedural default under NRS 34.726 and NRS 34.810, a defendant has the
3 burden of pleading and proving specific facts that demonstrate good cause for his failure to
4 present his claim in earlier proceedings or comply with the statutory requirements. See Hogan,
5 109 Nev. at 959-60, 860 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305.

6 “To establish good cause, appellants *must* show that an impediment external to the
7 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
8 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
9 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an
10 external impediment could be “that the factual or legal basis for a claim was not reasonably
11 available to counsel, or that ‘some interference by officials’ made compliance impracticable.”
12 Hathaway, 119 Nev. at 251, 71 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488,
13 106 S. Ct. 2639, 2645 (1986)); see also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing
14 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of
15 the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

16 The Nevada Supreme Court has clarified that, a defendant cannot attempt to
17 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
18 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71
19 P.3d at 506; (quoting Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the
20 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel
21 to forward a copy of the file to a petitioner have been found not to constitute good cause. See
22 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as
23 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,
24 111 Nev. 335, 890 P.2d 797 (1995).

25 Here, Petitioner fails entirely to plead or demonstrate good cause for his failure to
26 comply with the procedural rules. This failure necessitates the wholesale rejection of his
27 claims, as it is Petitioner’s burden to plead specific facts demonstrating good cause. Riker, 121
28 Nev. at 232, 112 P.3d at 1075; see also Haberstroh, 119 Nev. at 181, 69 P.3d at 681; Bejarano

1 v. Warden, 112 Nev. 1466, 1471, 929 P.2d 922, 925 (1996); Hargrove v. State, 100 Nev. 498,
2 502-03, 686 P.2d 222, 225 (1984).

3 In Ground 3, Petitioner does appear to suggest that he had difficulties in obtaining
4 evidence. He fails to specify what evidence that would have been, or why it was necessary for
5 him to present his claims. Considering that his claim is that the entirety of the Nevada Revised
6 Statutes are unconstitutional and invalid, it does not appear any case evidence would be
7 relevant to this claim, which is largely based upon misinterpretations of legislative history and
8 case law. Accordingly, Petitioner has failed to demonstrate good cause to overcome the
9 procedural bars, and the Petition must be summarily denied.

10 **III. PETITIONER FAILS TO DEMONSTRATE PREJUDICE BECAUSE HIS**
11 **LAUGHABLE CLAIM THAT THE NRS IS INVALID IS OBVIOUSLY**
12 **WITHOUT MERIT**

13 In order to establish prejudice, the defendant must show “not merely that the errors of
14 [the proceedings] created possibility of prejudice, but that they worked to his actual and
15 substantial disadvantage, in affecting the state proceedings with error of constitutional
16 dimensions.” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
17 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). Petitioner cannot
18 demonstrate prejudice sufficient to ignore his default, because his underlying claim is
19 meritless.

20 Petitioner claims that NRS 171.010—the statute granting district courts jurisdiction
21 over criminal cases within Nevada—and the entirety of the NRS are unconstitutional and
22 invalid. Humorously, Petitioner ignores the fact that if this were the case, Petitioner could not
23 petition this Court for postconviction relief, as the postconviction petition for writ of habeas
24 corpus is a creature of statute, in existence solely due to Chapter 34 of the NRS.

25 NRS 171.010, and all of the Nevada Revised Statutes, were properly passed and are
26 valid law. The Nevada Revised Statutes were properly passed by the 48th Legislature and
27 approved by the governor. See Legislative Counsel’s Preface, 2, available at: [http:// www.](http://www.leg.state.nv.us/Division/Research/Library/Documents/IIistDocs/Preface.pdf)
28 [leg.state.nv.us/Division/Research/Library/Documents/IIistDocs/Preface.pdf](http://www.leg.state.nv.us/Division/Research/Library/Documents/IIistDocs/Preface.pdf) (“*Nevada*
Revised Statutes in typewritten form was submitted to the 48th Session of the Legislature in

1 the form of a bill providing for its enactment as law of the State of Nevada. This bill, Senate
2 Bill No. 2 . . . was passed without amendment or dissenting vote, and on January 25, 1957,
3 was approved by Governor Charles H. Russell.” (emphasis in original)).

4 Moreover, the existence of Senate Bill No. 2 and the Nevada Revised Statutes are *prima*
5 *facie* evidence of their own constitutionality—as illustrated *supra*, nothing can become a law
6 that has not first passed through the steps outlined in the Nevada Constitution, and bills may
7 originate in either the senate or assembly. Defendant offers no evidence that Senate Bill No. 2
8 and the Nevada Revised Statutes are not valid law, and their very existence belies his claim
9 that they are not. See generally Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225
10 (1984). Accordingly, Defendant’s claim is without merit and he is not entitled to relief.

11 The Nevada Revised Statutes consist of *previously enacted laws* which have been
12 classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. Thus, the
13 reason the Nevada Revised Statutes are referenced in criminal proceedings is because they
14 “constitute the official codified version of the Statutes of Nevada and may be cited as *prima*
15 *facie* evidence of the law.” NRS 220.170(3) (emphasis added).

16 CONCLUSION

17 For the foregoing reasons, the State respectfully requests that the Petition for Writ of
18 Habeas Corpus be DENIED.

19 DATED this 10th day of April, 2023.

20 Respectfully submitted,

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

23
24 BY /s/ Karen Mishler
25 KAREN MISHLER
26 Chief Deputy District Attorney
27 Nevada Bar #013730
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that service of the above and foregoing was made this 10th day of
3 APRIL 2023, to:

4 JUSTIN LANGFORD, BAC#1159546
5 LOVELOCK CORRECTIONAL CENTER
6 1200 PRISON ROAD
7 LOVELOCK, NV 89149

8 BY /s/ Howard Conrad
9 Secretary for the District Attorney's Office
10 Special Victims Unit

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28 hjc/SVU

Heather J. Hemin
CLERK OF THE COURT

1 MTN
 2 Justin Odell Langford[Ⓢ] - 111595461
 3 LEC,[Ⓢ] 1200 Prison Road
 4 Lovelock, Nevada 89500
 5 No Phone
 6 No Fax
 7 No E-Mail
 8 Paralegal

9
 10 DISTRICT COURT
 11 CLARK COUNTY, NEVADA

12
 13 Justin Odell Langford[Ⓢ] Case No. A-18-784811-W
 14 Petitioner/Debtor, Dept No.
 15 - vs - Date
 16 Warden Tim Garrett, Time
 17 Respondent. (Hearing Not Required/Nor Requested)

18 Motion For Continuance

19
 20
 21 COMES NOW, Justin Odell Langford[Ⓢ], in Propria persona, to file his
 22 Motion For Continuance and moves this Honorable Court for an order
 23 granting his motion. This motion is made and based upon all papers,
 24 pleadings, files, and documents on file with this Honorable Court
 25 and the attached Memorandum of Points and Authorities.

CLERK OF THE COURT

RECEIVED
APR 29 2023

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 ARGUMENTS

4
5 Petitioner comes to this court to ask it to continue the
6 hearing ~~is~~^{is} scheduled for May 31, 2023. Petitioner ask that hearing
7 be continued for 25 days. The Petitioner ask that this court
8 move it so he has time to reply to the Respondents Reply brief
9 to his Petition. Due to the fact that by the time Petitioner receives
10 the Opposition it will be approximately 14 days from the hearing and
11 won't have time to get a reply into the Court in time for the court
12 to consider it.

13
14 II.

15 CONCLUSION

16 WHEREFORE Petitioner prays that this court grant his request
17 for a 25 day Continuance, making the new court date June 25TH,
18 2023,

19
20
21 III

22 Verification.

23
24 I, Justin Odell Langford, [©] declare and verify, that I have read the above-entitled
25 document and that to the best of my knowledge and belief that it is true and
26 correct under the pains and penalties of perjury pursuant to
27

1 28 U.S.C. 31746.

2 DATE: April 13th, 2023

3 *Justin Odell Langford* ©
4 Justin Odell Langford

5
6 IV
7 Notice Of Motion

8
9 TO: Tim Garrett, Please take notice that the above entitled document
10 ~~will~~ will be brought before the above entitled court on the following
11 date _____ at the following time _____ or as soon
12 there after we may be heard.

13 DATE: April 13th, 2023

14 *Justin Odell Langford* ©
15 Justin Odell Langford

16
17 V
18 Certificate Of Service

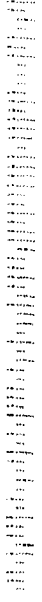
19
20 I, Justin Odell Langford, © certify that I have attached a true and correct
21 copy of the above-entitled document, with special instructions to the clerk of the
22 court to E-File & E-Serve all of my opponerits pursuant to N.E.F.C.R., SCR 9
23 et seq. (A-E) Etc, to the following:
24 Steven B. Wolfson, Clark Cnty OH.

Justin Odell Langford 215154123
LCC, c/o 1200 Prison Road
Hoveleok, Nev. 89000

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

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5/2/2023 3:52 PM
Steven D. Grierson
CLERK OF THE COURT



Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 2

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Continuance in the above-entitled matter is set for hearing as follows:

Date: June 05, 2023

Time: 9:30 AM

Location: RJC Courtroom 12B
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/ Jade Osaw
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/ Jade Osaw
Deputy Clerk of the Court

1 ADDM
2 Justin Odell Langford 1154546
3 LCC, 1200 Prison Road
4 Lovelock, Nev, 89419
5 No E-mail
6 No Phone
7 No Fax

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 Justin Odell Langford,
11 Petitioner,
12 vs.
13 Warden Tim Garrett,
14 Respondent.

CASE No.: A-18-784811
DEPT No.: II
Hearing Not Requested

15 ADDENDUM TO MOTION FOR ENLARGEMENT OF
16 TIME

17 Date Of Hearing: May 31ST 2023
18 Time Of Hearing: 8:30 A.M.

19
20 This is to notify the Court that as of May 1ST, 2023 the
21 Petitioner has not recieved the respondents reply to
22 the Petitioner's Petition. See Exhibit 1 Petitioners Incoming
23 Legal Mail Log as proof that the Respondent has sent
24 their reply that it Filed on Apr. 10th, 2023. The only
25 reason petitioner knows is due to just obtaining an updated
26 copy of the Docket Sheet. This is to further support the
27

1 Petitioner motion for Enlargement of Time to file a reply
2 to Respondents Answer to Petitioners Petition. Petitioner
3 has sent to the Court Clerk to obtain a copy of the
4 Respondents Answer, being that the Respondent can follow
5 the law and are trying to win by any means necessary.

6
7
8 Respectfully Submitted
9 *By Gust Odell Snyper*
10 Petitioner, 1154546

11
12 VERIFICATION

13
14 I, declare and verify, that I have read the above-entitled
15 document that it is true and correct to the best ~~am~~ of my
16 own knowledge and belief under the pains and penalties
17 of perjury pursuant to 28 U.S.C. §1746.

18 Date: May 1st 2023

19 *Gust Odell Snyper*
20 Petitioner, 1154546

1 CERTIFICATE OF SERVICE

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I, certify, that I have attached a true and correct copy of the foregoing document with special instructions to the Clerk of the Court for E-file and E-service to all of my opponents pursuant to N.E.F.C.R. 9 Et. Sec. (H-E) Etc., to the following Parties on the Master Service list:

Service List

- Steven Wolfson
Clrk. Cnty. Dist. Atty.
- Haron Ford
Nev. Atty. Gen.

EXHIBIT

1

EXHIBIT

1

LCC #001

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LANGFORD	1159546	2B/34	S GRIERSON CLERK LVNV 89155	4/21/2023
LANGFORD	1159546	2B/34	RTS J GEORGE ESQ LVNV 89101	4/21/2023
LANGFORD	1159546	2B/34	S GRIERSON CLERK LVNV 89155	4/24/2023
LANGFORD	1159546	2B/34	NV SUPREME CT CCNV 89701	4/25/2023
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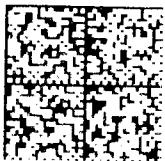
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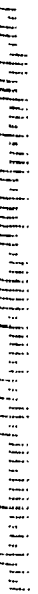
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
5/23/2023 11:45 AM
Steven D. Grierson
CLERK OF THE COURT



Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 2

NOTICE OF HEARING

Please be advised that the Plaintiff/Inmate's Addendum to Motion for Enlargement of Time in the above-entitled matter is set for hearing as follows:

Date: June 26, 2023

Time: 9:30 AM

Location: RJC Courtroom 12B
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/ Mari Long
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/ Mari Long
Deputy Clerk of the Court

Andrew Lemire
CLERK OF THE COURT

1 ROPP
2 Justin Odell Langford[©] [1159516]
3 LCC, 46 1200 Prison Road
4 Lovelock, Nevada 00000
5 NO Phone
6 No E-Mail

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 Justin Odell Langford[©]
10 PETITIONER/DEBTOR

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

11 -VS-

DEPT NO: II

12 WARDEIN TIM GARRETT,
13 (Real Party of Interest)
14 Respondent.

15
16 PETITIONER'S REPLY TO STATE'S RESPONSE TO
17 DEFENDANT'S PETITION FOR WRIT OF HABEAS
18 CORPUS

19
20 Justin Odell Langford[©], hereby submits the attached
21 Points and Authorities in this Petitioner's Reply To State's
22 Response To Defendant's Petition For Writ Of Habeas
23 Corpus. This Reply is made and based upon all the
24 papers and pleadings on file herein, the attached points
25 and authorities in support hereof, and oral argument
26 at the time of hearing, if deemed necessary by this
27 Honorable Court.

20230531 10:07:07 AM

1 POINTS AND AUTHORITIES

2 I.

3 ARGUMENT

4
5 First Petitioner wants to address the Statement
6 Of The Facts filed by Karen Mishler wherein once
7 again she and the State Of Nevada Commit libel,
8 Slander, Defamation Of Character as everything
9 in it the Jury Found the Petitioner Not Guilty of this
10 stuff. Yet Conspicuously Counsel does not even
11 mention the Charge Petitioner Was Convicted of
12 at trial. This has been previously addressed and
13 corrected where Counsel was warned of the
14 consequences of these actions.

15
16 Now Petitioner turns the Courts Attention to all
17 Procedural Hurdles Argued by the Respondent
18 starting on Page 7 Line 18 Lasting until page 13 Line 2.
19 first Off Jurisdictional Challenges can't be Time-
20 Barred, Defaulted nor waived. United States v.
21 Cotton, 535 U.S. 625, 152 L.Ed. 2d 860, 122 S. Ct 1751 (2002);
22 See also State Indus. Ins. Sys. v. Sleeper, 100 Nev. 267,
23 264, 679 P.2d 1273, 1274 (1984) ("There can be no dispute that
24 lack of subject-matter jurisdiction renders a judgment
25 void."). A failure of subject matter jurisdiction cannot be
26 waived because parties cannot artificially invest a
27 court with a power it does not constitutionally have

1 by ducking their heads and pretending the problem
2 doesn't exist, Vaile, 118 Nev. at 276, 44 P.3d at 515-16
3 (Subject-matter Jurisdiction cannot be waived.");
4 Swain v. Swain, 106 Nev. 707, 467, 776 P.2d 221, 227 (1990)
5 (Subject-matter jurisdiction "Cannot be conferred by
6 the parties."); Barber v. The State of Nevada, 131 Nev.
7 1065, 1069, 363 P.3d 459, 2015 Nev. Lexis 122, 131 Nev. First
8 Rep. 103; whether a court lacks subject-matter
9 jurisdiction can be raised by the parties at any
10 time, or sua sponte by a court of review, and
11 cannot be conferred by the parties. So the Court
12 can see NRS 34.726 can't be mandatorily applied
13 cause jurisdiction can be raised at any time,
14 Thus it can't be strictly enforced as then this Court
15 would be going against U.S. Sup. Ct. Rulings and
16 Nev. Sup. Ct. ~~Ret~~ Rulings that say Subject-matter
17 Jurisdiction can be raised at "Any" time, NRS
18 34.810(2) can't be applied for the same reasons
19 as discussed supra.

20 Then the Respondents argument regarding
21 Cause and prejudice must also fail. As the Point of
22 Cause and prejudice, we repeat, is to overcome the
23 waiver But this analysis of course assumes the error
24 in question is a waivable one. And Jurisdictional defects
25 are not. Because jurisdictional defects are nonwaivable,
26 [Petitioner] need not provide [this Court] with an
27 excuse ("Cause and Prejudice") adequate to convince us to

1 Forgive his waiver. Torres v. Oakland Sawdger Co., 487
2 U.S. 312, 317 n.3, 101 L Ed 2d 257, 108 S Ct 2405 (1983). The
3 Petitioner reasserts his arguments from what should
4 be labeled as page 5 Line 4 to pg. 7 Line 4. Also to
5 further Prove the illegality of NRS 171.010 the
6 Petitioner points this Court to the Nev. Sup. Ct.
7 Ruling of Theriault v. State, 92 Nev. 185 at 187, 547
8 P2d 668 (1976) wherein it quotes NRS 171.010 as stating
9 "Every person whether an inhabitant of this state,
10 or any other state, or of a territory or district
11 of the United States, is liable to punishment
12 by the laws of this state for a public offense
13 committed by him therein, except where it is by
14 law cognizable exclusively in the courts of
15 the United States."
16 That was the version in the statutes of Nevada as of
17 1976, now we fast forward to the Nev. Sup. Ct.
18 Ruling in State v. Burron, 125 Nev. 337, 279 P.3d 182
19 (2012) wherein it quotes the version in Petitioner's
20 Petition at EXHIBIT 1 wherein the Current
21 Version is missing the words "By him" from it. For
22 words to be removed it had to be done by the
23 legislature and there is no Senate/Assembly
24 Bill ever amending NRS 171.010, thus there is no
25 Statute of Nevada for NRS 171.010 to be Prima facie
26 evidence of as there is no bill enacting the Current
27 version of it.

1 NRS 171.010 equals personal jurisdiction. Personal
2 Jurisdiction, or the right to judge a person, is primarily
3 one of venue or procedure, while jurisdiction of the
4 subject matter in criminal proceedings involves the actual
5 thing involved in the controversy, the crime, or public
6 offense that is actually committed. "The subject-matter
7 of a criminal offense is the crime itself. Subject-matter in
8 its broadest sense means the cause, the object, the thing in
9 dispute." *Stilwell v. Markham*, 10 P.2d 15, 16 (1944). "In a
10 criminal prosecution it is necessary that the trial court
11 have jurisdiction of the subject matter - that is - the
12 offense - as well as the person of the defendant.
13 Jurisdiction of the subject matter is derived from the
14 law." *State, ex rel. Hanson v. Rigg*, 104 N.W.2d 553, 250
15 Minn. 350 (1962).

16 An as it stands Unchallenged by the Respondents
17 this Honorable Court lacked Personal Jurisdiction
18 over the Petitioner as there is no valid version of
19 NRS 171.010. Thus the Court had no authority to enter
20 a Judgment of Conviction regarding the Petitioner.
21 The arguments supra are in regards to Count 1 of
22 Petitioner's Petition.

23

24 Petitioner Now Reinserts his arguments supra at
25 page 2 Line 16 to page 4 Line 4 in support of why
26 the Court must hear Count 2 of the Petitioner's
27 Petition. Petitioner in Count 2 is challenging the

1. Constitutionality of NRS 201.230 along with the
2. Constitutionality and legality of NRS 220.110 and
3. 220.170. And as a matter of Constitutionality ~~and~~ and
4. legality of all three they must be declared as
5. void as none have a foundation in the law or the
6. Constitution of Nevada. And as of this moment
7. every thing in Court 2 stand unrefuted by the
8. Respondent equalling silence is Acquiescence, see
9. *Walt v. Guinnemaker*, 501 U.S. 777 (1991); see also
10. *Eureka v. Bank*, 35 Nev. 80 (1912); *Hixon v. Pixley*, 15 Nev.
11. 475 (1880).

12. And the Respondents argument at page 13 Lines
13. 19-23 is the argument of a rodeo clown as the
14. Petitioners Petition is clearly labled as a "Petition
15. for Writ of Habeas Corpus (Nev. Const. Art. 6, 26)"
16. not a Petition for Writ of Habeas Corpus post-
17. conviction pursuant to NRS Chap. 34. The Constitutional
18. writ of habeas corpus is still available for relief so
19. Respondents argument is sadly misplaced. It is the
20. State who makes the laughable. Claim of the NRS
21. are valid Cause if the Court was to actually
22. uphold the language of Senate Bill 2 (1957) all of
23. the NRS are invalid as it declares them the law
24. of Nevada. See 1957 statutes of Nevada, Page 1
25. to 1957 statutes of Nevada, Page 4; see also
26. 1957 statutes of Nevada, Page 787 which contains
27. Senate and Assembly Concurrent Resolution No. 1.

1 wherein Assembly Concurrent Resolution No. 1, also
2 States "Whereas, The 48th session of the legislature of
3 the State of Nevada, by unanimous vote of the
4 members thereof, has enacted into law the Nevada
5 Revised Statutes as the Law of the State of
6 Nevada..." So where is the ~~Constitutionality~~
7 Constitutionally Required Enactment Clause as it
8 is not on any NRS. Again NRS 220.110 and NRS
9 220.170(3) can't override 1957 statutes of Nevada,
10 page 1 to 1957 statutes of Nevada, page 4 nor
11 can it override what is declared in 1957 statutes
12 of Nevada, Page 757. And as clarification the
13 Petitioner is only challenging the validity of
14 NRS's 220.110, 220.170, 200.230 Petitioner does not
15 care about any other statute affecting anyone else
16 he is challenging what affects him, the State can
17 have all the other laws until others properly
18 challenge them. As the Petitioner Can't Challenge what
19 don't affect him.

20 It is elementary that the Jurisdiction of the Court over
21 the subject matter of the action is the most critical aspect
22 of the courts authority to act. Without it, the court lacks
23 any power to proceed. *Calloway v. Woodell*, 83 Nev.
24 13, 422 P.2d 237 (1967); *M. Khan v. United States*, 200
25 F.3d 732 (11th Cir. 2000). Subject matter jurisdiction
26 defines a courts authority to hear a given type of
27 case. *United States v. Morton*, 467 U.S. 822, 104 S. Ct

1 2707, 81 L Ed 2d 650 (1984).

2 Under our federal system of dual sovereignty, subject
3 matter of state courts is governed in the first-instance
4 by state laws, *Chivas Products Ltd. v. Owens*, 807 F.2d 1280
5 (6th Cir 1986). Moreover, subject matter jurisdiction cannot
6 be "cured" and, if the court does not have jurisdiction,
7 it does not have power to preside over the case.

8 *Baker v. Siemens Energy and Automation*, 820 F.Supp
9 1255 (D. Cal. 1993)

10 Nevertheless, the word "jurisdiction" is ambiguous. In
11 its fundamental sense, 'jurisdiction' refers to a court's
12 power over persons and subject matter. Less fundamentally,
13 'jurisdiction' refers to a court's authority to act with
14 respect to persons and subject matter within its power. As
15 such when a court lacks jurisdiction in a fundamental,
16 sense, an ensuing judgment is void, and 'thus vulnerable
17 to direct or collateral attack at anytime'. *Burgess v.*
18 *Merchants Collection Association*, 7 Cal. 3d 94, 119, 101 Cal.
19 Rptr. 745, 496 P2d 617 (1972). Subject matter jurisdiction
20 cannot be conferred by waiver or consent, and may be
21 raised at anytime. *Rodriguez v. State*, 441 So. 2d 1129,
22 1135 (Fla. App. 1983).

23 The subject matter jurisdiction of a criminal case is
24 related to the cause of action in general, and more
25 specifically to the alleged crime or offense which
26 creates the action.

27 An information in a criminal case is the main means by

1 which a courts obtains subject matter jurisdiction, and is
2 "the jurisdictional instrument upon which the accused
3 stands trial." *State v. Chetman*, 671 P.2d 531, 538 (Kan., 1983).
4 The information is the foundation of the jurisdiction of the
5 court. If this charging instrument is invalid, there is a
6 lack of subject matter jurisdiction.

7 "Without a formal and sufficient information, a court
8 does not acquire subject matter jurisdiction and
9 thus an accused may not be punished for a
10 crime."

11 *Honomichi v. State*, 333 N.W. 2d 747, 748 (S.D., 1983)

12 A formal accusation is essential for every trial of a crime.
13 Without it a court acquires no jurisdiction to proceed, even
14 with the consent of the parties, and where the information is
15 invalid the court is without jurisdiction. *Ex parte Carlson*,
16 186 N.W. 122, 123, 176 Wis. 538 (1922), "Without a valid
17 complaint (or information) any judgment or sentence is 'void
18 ab initio', *Ralph v. Police Court of El Cerrito*, 190 P.2d 632, 634,
19 84 Cal. App. 2d 257 (1948).

20 Also for Courts Notice is the fact that the
21 Respondent didn't counter argue anything from pg. 17
22 line 14 to pg. 28 line 4. So again the Respondent's pose
23 that the Statutes of Nevada are the Law How is
24 this when the 1957 Statutes of Nevada, Page 1 States
25 under Senate Bill No. 2 "Section 1. Enactment of
26 Nevada Revised Statutes. The Nevada Revised
27 Statutes, being the statute laws set forth after

1 Section 9 of this act, are hereby adopted and enacted as
2 law of the State of Nevada", So what is the law in
3 Nevada? Petitioner Says The Nevada Revised
4 Statutes Are the Law and supports this fact by way of
5 1957 statutes of Nevada, Page 1 through 1957 Statutes
6 of Nevada, Page 4 and 1957 Statutes of Nevada,
7 Page 757. The Respondents, The State of Nevada, and
8 the Courts all say NRS 220,170(b) Shows the NRS's
9 are Prima facie evidence of the law and the Statutes of
10 Nevada are the law. NRS 220,170 was created by the
11 1957 Statutes of Nevada, Pages 1 to 4 which it can't
12 override as the Legislative enactments at 1957 Statutes
13 of Nevada, pages 1 to 4 and 1957 Statutes of Nevada,
14 Page 757 say the Nev. Rev. Stat. are the Law and the
15 Nev. Const. at Art. 4, 335 it dictates all Laws shall have
16 the Enactment Clause.

17 No on to the Respondents argument at page 13
18 lines 3 to line 9 wherein the Respondent is way off
19 in regards to Ground 3.

20 As the ~~the~~^{the} Petitioner argues exceptions to law of
21 the case indicating he is relying on the 3rd
22 exception to law of the case, that is in section A of
23 Ground 3. In section B ~~lays~~^{lays} Petitioner lays out how
24 many trys' it took him to obtain Transcripts to
25 prove his claim in the claim, wherein Petitioner shows
26 he had filed three (3) different motions for Transcripts
27 and 1 motion to reconsider a denial of one of the

1 motions. It wasn't until Jan. 2020 that the Petitioner had
2 received the Transcripts in which proves his Jury was
3 not properly sworn in. Prior to obtaining trial transcripts
4 in Jan. 2020 the Court Minutes showed the Jury was
5 properly sworn and Petitioner had no evidence to
6 rebut the Court Minutes and this was the Courts Fault.

7 Petitioner clearly lays out his Good Cause, Actual
8 Prejudice And Fundamental Miscarriage of Justice Facts
9 to overcome NRS 34.726 and 34.810, In section C of
10 Ground 3. In Section D the Petitioner Shows how
11 ~~the~~ ^{J.D.} Jeopardy Does not attach Until Jury Is Properly Sworn,
12 and how without a properly sworn jury there can be no
13 finding of Guilt in Petitioner Criminal. In Section E of
14 Ground 3 the Petitioner Shows how the Judge is required
15 to swear in the Jury not the Court Clerk. And shows
16 how the Nev. Sup. Ct. in Barral v. State, 353 P.3d 1197, 1199
17 had already declared the matter a structural Error
18 and that this must be reversed.

19 So again the Respondent again didn't contest any
20 of Petitioner's Claims/Facts in Ground 3, thus equalling
21 Silence is acquiescence. See *Yost v. Wonnemaker*, 501
22 U.S. 747 (1991); see also *Eureka v. Bank*, 35 Nev. 80 (1912);
23 *Hixon v. Pixley*, 15 Nev. 475 (1880), and now the Petitioner
24 ask that this Court Grant Ground 3.

25 PETITIONER ALSO AVERS the Respondent didn't
26 send its response as claimed see Addendum to Motion for
27 Enlargement of time EXHIBIT which is Petitioner's Legal Mail log.

1 CONCLUSION

2
3 Wherefore Petitioner Prays this Honorable Court finds
4 that it didn't have Personal Jurisdiction do to all the issues
5 with NRS 171.010 rendering his conviction void.

6 Wherefore Petitioner Prays this Honorable Court finds that
7 it didn't have Subject matter Jurisdiction do to the
8 Unconstitutionality of NRS 201.230 which is proven by way
9 of unrefutable legislative records.

10 Wherefore Petitioner Prays that this Honorable Court
11 finds that his Jury was not properly sworn equalling a
12 Structural Error and that his conviction must be
13 vacated due to this as dictated by the Nev. Sup. Ct.

14
15 CERTIFICATE OF SERVICE

16
17 I, Certify, that I have attached a true and correct copy of
18 the above-entitled document with special instructions to the
19 Clerk of the Court for E-file and E-Service to all of my
20 opponents pursuant to N.E.F.C.R., 9 et. seq. (A-E) Etc. to the
21 following people on the Master Service List:

22 Master Service list:

23 Steven B. Wolfson, Clrk. Cnty. D.A.

24 Karen Mishler, Chief Dpty. D.A.

25

26

27

1 VERIFICATION

2
3 I, declare and verify, that I have read the above-entitled
4 document and that to the best of my own knowledge and belief
5 that it is true and correct under the pains and penalties of
6 perjury pursuant to 28 U.S.C. § 1746

7 DATE: May 23rd 2023

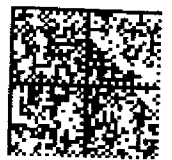
8 151 Gustav Odell - Signed

9 Petitioner - [# 1159546]

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Justin O. Langford [1152546]
12C, 1100 Prison Road
Lovelock, Nev, 89419

LOVELOCK CORRECTIONAL CENTER



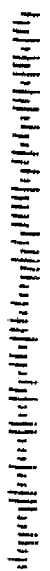
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FIRST-CLASS PERMIT NO. 1000
LOVELOCK, NV
ZIP 89419 \$000.84
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Thomas J. Amin
CLERK OF THE COURT

1 MPRO
2 Justin Odell Langford[Ⓢ] [L#1159546]
3 LCC, 1200 Prison Road
4 Lovelock, Nevada 00000

5

6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

Justin Odell Langford[Ⓢ],

CASE No: [Ⓢ] A-18-784811

9

Petitioner,

DEPT No: II

10

vs.

DATE :

11

Warden Tim Garrett,

TIME :

12

Respondent.

(Hearing Not Requested/Required)

13

14 Ex Parte Motion For Transportation Of Inmate For
15 Court Appearance Or, In The Alternative, For Appearance
16 By Telephone Or Video Conference.

17

18 Petitioner, Justin Langford[Ⓢ], proceeding pro se, requests
19 that this Honorable Court order transportation for his personal
20 appearance or, in the alternative, that he be made available to
21 appear by telephone or by video conference at the
22 hearing in the instant case that is scheduled for July 26th,
23 2023 at 9:30 A.M.

24 In support of this Motion, I allege the following: (1) I am
25 an inmate incarcerated at Lovelock, Nevada and have no
26 mandatory release date as I am serving a 10 to Life
27 Sentence.

1 2.) The Department of Corrections is required to transport
2 offenders to and from Court if an inmate is required or
3 request to appear before a Court in this state.

4 NRS 209.274 Transportation of Offender to Appear
5 Before the Court state; "1. Except as otherwise provided in
6 this section, when an offender is required or requested to
7 Appear before a Court in this state, the Department ~~for the~~^{July}
6 shall transport the offender to and from Court on the
9 day scheduled for his appearance; 2. If notice is not
10 provided within the time set forth in NRS 50.215, the
11 Department shall transport the offender to Court on the scheduled
12 for his appearance if it is possible to transport the
13 Offender in the usual manner for the transportation of
14 Offenders by the Department. If it is not possible for the
15 Department to transport the offender in the usual manner;
16 (a) The Department shall make the offender available on the
17 date scheduled for his appearance to provide testimony by
18 telephone or by video conference if so requested by the
19 Court...."

20 The Petitioner has three (3) Litigation holds due to
21 three (3) ~~seperate~~ ^{separate} Seperate Lawsuits pending in the 11th
22 Jud. Dist. Ct. in Lovelock, Nev. so this has to be done
23 by telephonic/video methods.

24 The prohibition against ex parte communication requires
25 that I be present at any hearing at which the state is
26 present and at which issues concerning the claims raised in
27 my Petition are addressed. U. S. Const. Amends. V, VI,

1 If a person incarcerated in a state prison is required
2 or is requested to appear as a witness in any action, the
3 Department of Corrections must be notified in writing not
4 less than 7 business days before the date scheduled for his
5 appearance in court if the inmate is incarcerated in a
6 prison located not more than 40 miles from Las Vegas. NRS
7 50.215(4). If a person is incarcerated in a prison located
8 41 miles or more from Las Vegas, the Department of
9 Corrections must be notified in writing not less than 14
10 business days before the date scheduled for the person's
11 appearance in court.

12 Lovelock Correctional Center is located approximately
13 300+ miles from Las Vegas, Nevada.

14 When the Court hears this motion there will be insufficient
15 time to provide the required notice to the Department of
16 Corrections for me to be transported to the hearing. The
17 Petitioner respectfully request that this Honorable
18 Court Order the Warden to make me available on the
19 date of the scheduled appearance, by telephone, or video
20 conference, pursuant to NRS 209.274(2), so that I may
21 provide relevant testimony and/or be present for the
22 evidentiary hearing.

23 The rules of the institution prohibit me from placing
24 telephone calls from the institution, except for collect calls,
25 unless special arrangements are made with prison staff. Nev.
26 Admin. Code DOC 716.01. However, arrangements for my
27 telephone appearance can be made by contacting the

1 following staff member at my institution: Tim Garrett,
2 Warden whose telephone number is 775-977-5350

3

4

VERIFICATION

5

6 I, declare and verify, that I have read the above -
7 entitled document and that it is true and correct to the
8 best of my own knowledge and belief under the pains and
9 penalties of perjury pursuant to 28 U.S.C. § 1746.

10 DATE: June 5th, 2023

11

~~Justin Odell Langford~~

12

Justin Odell Langford

13

14

CERTIFICATE OF SERVICE

15 I, certify, that I have attached a true and correct copy of
16 the foregoing document with special instructions for E-File and
17 E-Service to all of my opponents pursuant to W.E.F.C.R. 9(k)
18 et seq (A-E) Etc to the following:

19

20 Steven B. Wolfson, Clerk, Crty. D.A.

21

22

23

24

25

26

27

Justin O. Langford [#1159546]
LCC, 1200 Prison Road
Loveock Nev. 00000

INMATE LEGAL
MAIL CONFIDENTIAL

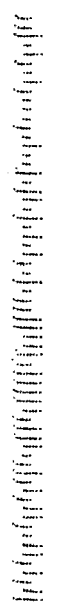
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DISTRICT COURT
CLARK COUNTY, NEVADA

Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 2

NOTICE OF HEARING

Please be advised that the Plaintiff / Inmate's- Ex Parte Motion for Transportation of Inmate for Court Appearance or, in the Alternative for Appearance by Telephone or Video Conference in the above-entitled matter is set for hearing as follows:

Date: August 07, 2023

Time: 9:30 AM

Location: RJC Courtroom 12B
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

Stewart J. Lewis
CLERK OF THE COURT

1 NOTC
2 Justin Odell Langford^(C) L#1154546J
3 LCC, 1200 Prison Road
4 Lovelock, Nevada USA 89419

5
6 DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 Justin Odell Langford^(C)
9 Petitioner,

CASE No.: A-18-784811-W

DEPT No.: II

10 - vs -

DATE: 7-26-2023

11 Warden Tim Garrett,

TIME: 9:00 A.M.

12 Respondent

(HEARING REQUIRED/REQUESTED)

13
14 MOTION FOR JUDICIAL NOTICE TO BE
15 TAKEN

16
17 COMES Now Justin Odell Langford, In Proper, To file his
18 Motion For Judicial Notice To Be Taken. Petitioner moves
19 this Court to take Judicial Notice of the Grievance
20 attached as EXHIBIT 1, wherein the Court will see the
21 fact that Petitioner is grievencing the fact LCC/NDOC
22 Officials Sat in on his Legal Visit with his Federal
23 Private Investigator who is assigned to his Federal habeas.
24 Petitioner would love to believe LCC/NDOC officials are
25 not Dumb enough to committ this illegal act without
26 being told to do it by someone else. Yes Petitioner
27 is pointing At the D.A.'s Office & A.G.'s Offices For

RECEIVED

JUL 10 2023

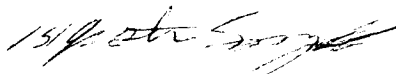
CLERK OF THE COURT

1 these actions;

2
3 VERIFICATION
4

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

9 DATE: 7/3/23

10 
11 Petitioner (#1159546)

12
13 CERTIFICATE OF SERVICE
14

15 I, Certify, that I have attached a true and correct copy
16 of the above-entitled document, with special instructions
17 to the Clerk of the Court for E-File & E-Service to all
18 of my opponents pursuant to N.E.F.C.R. 9 et seq.
19 (A-E) etc., to the following:
20 Aaron D. Ford, A.G.

21
22 Steven Wolfson, D.A.
23
24
25
26
27

EXHIBIT

1

EXHIBIT

1

LCC : #001

Log Number _____

NEVADA DEPARTMENT OF CORRECTIONS
INFORMAL GRIEVANCE

NAME: Justin Odell Langford I.D. NUMBER: 1159546

INSTITUTION: LCC UNIT: 2B-3413

GRIEVANT'S STATEMENT: On 6/25/23 I had a legal visit with my Federal Private Investigator for my Federal habeas. My legal visit was conducted in the technical equipment room for the Court Room next to the visiting holding cells. This legal visit was from 9:30 A.M. to 10:45am approx. The Problem is the

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Justin Odell Langford DATE: 6/26/23 TIME: 12:20pm

GRIEVANCE COORDINATOR SIGNATURE: _____ DATE: _____ TIME: _____

GRIEVANCE RESPONSE: _____

CASEWORKER SIGNATURE: _____ DATE: _____

GRIEVANCE UPHELD GRIEVANCE DENIED ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: _____ DATE: _____

INMATE AGREES INMATE DISAGREES

INMATE SIGNATURE: _____ DATE: _____

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

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

NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Justin O. Langford I.D. NUMBER: 1159546

INSTITUTION: LCC UNIT #: 2B

GRIEVANCE #: _____ GRIEVANCE LEVEL: IF

GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 2

fact that C/O malone sat in the Court Room with the Door to the tech room open so he can hear my conversation. Legally C/O Malone never should have been in the room this violates all rules of Confidentiality. All Camara footage from the cameras in the Court Room, Camara Footage in the hallway to the Court Room on the Inmate holding cells, and any visiting cameras pointing at the Court Room will prove this. On top of this there was a Lt. in visiting along with C/O meyers that knew he was in there while my Legal Visit was on going. I want all video footage saved. Relief Requested
1) Staff properly retrained on this issue; 2) Voluntary disclosure to the Court in my case; 3) A Report to the IG on this issue; 4) C/O Malone Suspended.
Filed In Fear Of Retaliation

Original: Attached to Grievance
Pink: Inmate's Copy

Justin Colell Langford - 1159516
LEC, 1200 Prison Road
Lovelock, Nev. 81418

RENO NV 895
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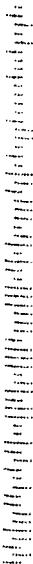
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Las Vegas Nev. 89155*



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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
7/20/2023 2:55 PM
Steven D. Grierson
CLERK OF THE COURT



Justin Langford, Plaintiff(s)

Case No.: A-18-784811-W

vs.

Warden Renee Baker, Defendant(s)

Department 2

NOTICE OF HEARING

Please be advised that the Plaintiff / Inmate's Motion for Judicial Notice to be Taken in the above-entitled matter is set for hearing as follows:

Date: August 21, 2023

Time: 9:30 AM

Location: RJC Courtroom 12B
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

1 **FFCO**
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 JUSTIN ODELL LANGFORD,
10 #2748452,
11 Petitioner,
12 -vs-
13 THE STATE OF NEVADA,
14 Respondent.

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

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER, RE: PETITION FOR WRIT OF HABEAS CORPUS**

DATE OF HEARING: JULY 26, 2023
TIME OF HEARING: 9:30 AM

18 THIS CAUSE having come on for hearing before the Honorable CARLI KIERNY,
19 District Judge, on the 26th day of July, 2023, the Petitioner not being present, proceeding in
20 propria persona, the Respondent being represented by STEVEN B. WOLFSON, Clark County
21 District Attorney, by and through KAREN MISHLER, Chief Deputy District Attorney, and
22 the Court having considered the matter, including briefs, transcripts, and documents on file
23 herein, now therefore, the Court makes the following findings of fact and conclusions of law:

24 //
25 //
26 //
27 //
28 //

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

2 **PROCEDURAL HISTORY**

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

9 After several continuances at the Petitioner's request, on March 7, 2016, a jury trial
10 convened and lasted nine days. On March 17, 2016, the jury returned a guilty verdict as to
11 Count 2, and not guilty as to all other Counts. On May 10, 2016, Petitioner was sentenced to
12 life with a possibility of parole after a term of 10 years have been served in the Nevada
13 Department of Corrections ("NDOC"). Petitioner received eight hundred forty-one (841) days
14 credit for time served. The Judgment 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 in Docket No. 70536.
17 Remittitur issued July 24, 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. On
25 August 10, 2017, the Court denied Petitioner's Motion for Sentence Reduction, granted
26 Petitioner's Motion for Production of Documents, Papers, Pleadings, and Tangible Property
27 of Petitioner, denied Petitioner's Motion for Transcripts at State's Expense, granted

28 //

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. On November 27, 2017, Petitioner filed a Motion for Ancillary
12 Services and a Motion for Transcripts and Other Court Documents and State's Expense. The
13 State filed its Opposition to Petitioner's Motion for Ancillary Services on December 13, 2017.
14 The Court denied Petitioner's Motions on December 19, 2017, and the order was filed on
15 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 and 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, in Docket No. 75825.

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, in Docket No. 77262.

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 //

1 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted
2 the Motion on September 19, 2019, directing the Clerk's Office to file an Amended Judgment
3 of Conviction with no change to the language, but amending the nature of the closure of the
4 case to reflect that the case was closed after a jury-trial conviction. The Amended Judgment
5 of Conviction was filed on September 23, 2019.

6 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
7 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The court
8 granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight hundred
9 fifty-nine (859) days credit for time served. The Second Amended Judgment of Conviction
10 was filed on October 23, 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. The
19 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.

21 On February 18, 2020, Ms. McNeill informed the Court she had provided Petitioner
22 with his file on four (4) different occasions. The Court then denied Petitioner's Motion to Hold
23 Monique McNeill, Esq., Attorney of Record in Contempt for Failing to Forward Copy of Case
24 File.

25 On February 25, 2020, Petitioner filed a Motion to Correct Illegal Sentence. The State
26 filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10, 2020. On
27 March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the district court
28 denied Petitioner's Motion. The Order was filed on March 26, 2020.

1 On March 30, 2020, Petitioner filed a Notice of Appeal, appealing the denial of
2 Petitioner's Motion to Correct Illegal Sentence. On April 24, 2020, the Nevada Supreme Court
3 dismissed Petitioner's appeal because Petitioner had no right to appeal the district court's
4 decision in Docket No. 80972-COA. Remittitur issued on May 21, 2020.

5 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
6 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
7 2020.

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

17 On June 9, 2021, Petitioner filed a Motion to Correct Illegal Sentence. The State
18 responded June 16, 2021. Petitioner filed a Preemptive Reply to State's Opposition on June
19 22, 2021. The Motion was denied June 30, 2021. The Findings of Fact, Conclusions of Law
20 and Order was filed July 22, 2021.

21 On October 25, 2022, Petitioner filed a Petition for Writ of Habeas Corpus. On April
22 10, 2023, the State filed its Response. On May 31, 2023, Petitioner filed a Reply. On July 26,
23 2023, this Court denied the Petition, for the reasons stated as follows.

24 ANALYSIS

25 This Court finds postconviction relief is unwarranted because the Petition is
26 procedurally barred, due to being untimely, successive, and an abuse of the writ. Petitioner
27 fails to demonstrate the requisite good cause to overcome these procedural bars.

28 //

1 **I. THE PETITION IS PROCEDURALLY BARRED**

2 **a. The Petition is Time-Barred**

3 The mandatory provision of NRS 34.726(1) states:

4 Unless there is good cause shown for delay, a petition that challenges
5 the validity of a judgment or sentence must be filed *within 1 year after*
6 *entry of the judgment of conviction* or, if an appeal has been taken
7 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:

8 (emphasis added).

9 Thus, a petition challenging a judgment of conviction’s validity must be filed within
10 one year of the judgment or within one year of the remittitur, unless there is good cause to
11 excuse delay. NRS 34.726(1). The Nevada Supreme Court has held that NRS 34.726 should
12 be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528
13 (2001). The one-year time bar prescribed by NRS 34.726 begins to run from the date the
14 judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson
15 v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v. State, 117
16 Nev. 860, 873, 34 P.3d 519, 528 (2001) (holding that NRS 34.726 should be construed by its
17 plain meaning).

18 The one-year time limit for preparing petitions for post-conviction relief under NRS
19 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002),
20 the Nevada Supreme Court affirmed the rejection of a habeas petition that was filed two days
21 late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1).
22 Gonzales reiterated the importance of filing the petition with the district court within the one-
23 year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 118 Nev. at
24 593, 590 P.3d at 902. The one-year time bar is therefore strictly construed. In contrast with the
25 short amount of time to file a notice of appeal, a prisoner has an ample full year to file a post-
26 conviction habeas petition, so there is no injustice in a strict application of NRS 34.726(1). Id.
27 at 593, 53 P.3d at 903.

28 //

1 Here, remittitur from Petitioner’s direct appeal was issued on July 24, 2017. Thus, under
2 NRS 34.726 Petitioner had until July 24, 2018 to file a timely habeas petition. The instant
3 Petition was filed on October 25, 2022—more than four years after this statutory deadline.
4 Due to this failure to timely raise his habeas claims, this Court must deny the Petition, absent
5 a showing of good cause and prejudice. NRS 34.726(1).

6 **b. The Petition is Successive and an Abuse of the Writ**

7 The Petition is also procedurally barred because it is successive. NRS 34.810(2)
8 reads:

9 A second or successive petition *must* be dismissed if the judge or
10 justice determines that it fails to allege new or different grounds for
11 relief and that the prior determination was on the merits or, if new and
12 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.

13 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
14 different grounds for relief and the grounds have already been decided on the merits or that
15 allege new or different grounds but a judge or justice finds that the petitioner’s failure to assert
16 those grounds in a prior petition would constitute an abuse of the writ. Second or successive
17 petitions will only be decided on the merits if the petitioner can show good cause and prejudice.
18 NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

19 The Nevada Supreme Court has stated: “Without such limitations on the availability of
20 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
21 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
22 system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d at 950.
23 The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly require
24 a careful review of the record, successive petitions may be dismissed based solely on the face
25 of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
26 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
27 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).

28 //

1 Here, Petitioner has previously filed three postconviction petitions for writ of habeas
2 corpus—on April 24, 2018, November 19, 2018, and February 9, 2021. He has also filed
3 numerous other pleadings challenging the validity of his conviction. The claims he raises in
4 the instant Petition—that his conviction is invalid because the entirety of the Nevada Revised
5 Statutes is invalid—could have been raised in any of these prior petitions or pleadings.
6 Accordingly, the Petition is an abuse of the writ and is procedurally barred under NRS
7 34.810(2).

8 Additionally, as Petitioner could have raised his instant claim in a prior petition or on
9 direct appeal, this claim is waived pursuant to NRS 34.810(1)(b)(2). “A court must dismiss a
10 habeas petition if it presents claims that either were or could have been presented in an earlier
11 proceeding, unless the court finds both cause for failing to present the claims earlier or for
12 raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-
13 47, 29 P.3d 498, 523 (2001). Accordingly, this Court must deny the Petition in the absence of
14 a showing of good cause and prejudice. NRS 34.810(3).

15 c. The Procedural Bars are Mandatory

16 The Nevada Supreme Court has granted no discretion to the district courts regarding
17 whether to apply the statutory procedural bars. Instead, the Nevada Supreme Court has
18 emphatically and repeatedly stated that the procedural bars *must* be applied.

19 The district courts have *a duty* to consider whether post-conviction claims are
20 procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112
21 P.3d 1070, 1076 (2005). Riker held that the procedural bars “cannot be ignored when properly
22 raised by the State.” Id. at 233, 112 P.3d at 1075. Accord, State v. Huebler, 128 Nev. 192,
23 197, 275 P.3d 91, 94-95, footnote 2 (2012), cert. denied, 571 U.S. ___, 133 S.Ct. 988 (2013)
24 (“under the current statutory scheme the time bar in NRS 34.726 is *mandatory, not*
25 *discretionary*” (emphasis added)).

26 Even “a stipulation by the parties cannot empower a court to disregard the mandatory
27 procedural default rules.” State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003);
28 accord, Sullivan v. State, 120 Nev. 537, 540, footnote 6, 96 P.3d 761, 763-64, footnote 6 (2004)

1 (concluding that a petition was improperly treated as timely and that a stipulation to the
2 petition’s timeliness was invalid). The Sullivan Court “expressly conclude[d] that the district
3 court should have denied [a] petition” because it was procedurally barred. Sullivan, 120 Nev.
4 at 542, 96 P.3d at 765.

5 The district courts have zero discretion in applying the procedural bars because to allow
6 otherwise would undermine the finality of convictions. In holding that “[a]pplication of the
7 statutory procedural default rules to post-conviction habeas petitions is mandatory,” the Riker
8 Court noted:

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

12 Riker, 121 Nev. at 231, 112 P.3d at 1074.

13 Moreover, strict adherence to the procedural bars promotes the best interests of the
14 parties:

15 At some point, we must give finality to criminal cases. Should we
16 allow [petitioner’s] post conviction relief proceeding to go forward,
17 we would encourage defendants to file groundless petitions for federal
18 habeas corpus relief, secure in the knowledge that a petition for post-
19 conviction relief remained indefinitely available to them. This
20 situation would prejudice both the accused and the State since the
21 interests of both the petitioner and the government are best served if
22 post-conviction claims are raised while the evidence is still fresh.

23 Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989) (citations omitted).

24 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO** 25 **OVERCOME THE PROCEDURAL BARS**

26 To avoid procedural default, under NRS 34.726, a defendant has the burden of pleading
27 and proving specific facts that demonstrate good cause for his failure to present his claim in
28 earlier proceedings or to otherwise comply with the statutory requirements, and that he will be
unduly prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden, 109
Nev. 952, 959–60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep’t of Prisons, 104 Nev.
656, 659, 764 P.2d 1303, 1305 (1988). “A court *must* dismiss a habeas petition if it presents

1 claims that either were or could have been presented in an earlier proceeding, unless the court
2 finds both cause for failing to present the claims earlier or for raising them again and actual
3 prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001)
4 (emphasis added).

5 “To establish good cause, appellants must show that an impediment external to the
6 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
7 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119
8 Nev. 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. “A
9 qualifying impediment might be shown where the factual or legal basis for a claim was not
10 reasonably available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521,
11 525 (2003). The Court continued, “appellants cannot attempt to manufacture good cause[.]”
12 Id. at 621, 81 P.3d at 526. Examples of good cause include interference by State officials and
13 the previous unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op.
14 19, 275 P.3d 91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault
15 of the petitioner. NRS 34.726(1)(a).

16 To avoid procedural default under NRS 34.726 and NRS 34.810, a defendant has the
17 burden of pleading and proving specific facts that demonstrate good cause for his failure to
18 present his claim in earlier proceedings or comply with the statutory requirements. See Hogan,
19 109 Nev. at 959-60, 860 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305.

20 “To establish good cause, appellants *must* show that an impediment external to the
21 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
22 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
23 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external
24 impediment could be “that the factual or legal basis for a claim was not reasonably available
25 to counsel, or that ‘some interference by officials’ made compliance impracticable.”
26 Hathaway, 119 Nev. at 251, 71 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106
27 S. Ct. 2639, 2645 (1986)); see also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v.

28 //

1 Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the petition
2 must not be the fault of the petitioner. NRS 34.726(1)(a).

3 The Nevada Supreme Court has clarified that, a defendant cannot attempt to
4 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
5 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71
6 P.3d at 506; (quoting Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the
7 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel
8 to forward a copy of the file to a petitioner have been found not to constitute good cause. See
9 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as
10 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,
11 111 Nev. 335, 890 P.2d 797 (1995).

12 Here, Petitioner fails entirely to plead or demonstrate good cause for his failure to
13 comply with the procedural rules. This failure necessitates the wholesale rejection of his
14 claims, as it is Petitioner’s burden to plead specific facts demonstrating good cause. Riker, 121
15 Nev. at 232, 112 P.3d at 1075; see also Haberstroh, 119 Nev. at 181, 69 P.3d at 681; Bejarano
16 v. Warden, 112 Nev. 1466, 1471, 929 P.2d 922, 925 (1996); Hargrove v. State, 100 Nev. 498,
17 502-03, 686 P.2d 222, 225 (1984).

18 In Ground 3, Petitioner does appear to suggest that he had difficulties in obtaining
19 evidence. He fails to specify what evidence that would have been, or why it was necessary for
20 him to present his claims. Considering that his claim is that the entirety of the Nevada Revised
21 Statutes are unconstitutional and invalid, it does not appear any case evidence would be
22 relevant to this claim, which is largely based upon misinterpretations of legislative history and
23 case law. Accordingly, Petitioner has failed to demonstrate good cause to overcome the
24 procedural bars, and this Court must deny the Petition.

25 //

26 //

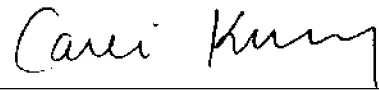
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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and it is, hereby denied.

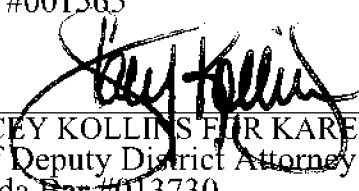
Dated this 3rd day of August, 2023



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

F80 4A0 06EE EC42
Carli Kierny
District Court Judge

BY



STACEY KOLLINS FOR KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

sar/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)

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 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: 8/3/2023

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 STATE OF NEVADA; WARDEN RENEE
9 BAKER,

10 Respondent,

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

11 **PLEASE TAKE NOTICE** that on August 3, 2023, 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 August 7, 2023.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Cierra Borum

Cierra Borum, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 7 day of August 2023, I served a copy of this Notice of Entry on the
21 following:

22 By e-mail:
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
1200 Prison Rd.
26 Lovelock, NV 89419

27 /s/ Cierra Borum

28 Cierra Borum, Deputy Clerk

1 **FFCO**
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 JUSTIN ODELL 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
DEPT NO: II

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER, RE: PETITION FOR WRIT OF HABEAS CORPUS**

DATE OF HEARING: JULY 26, 2023
TIME OF HEARING: 9:30 AM

18 THIS CAUSE having come on for hearing before the Honorable CARLI KIERNY,
19 District Judge, on the 26th day of July, 2023, the Petitioner not being present, proceeding in
20 propria persona, the Respondent being represented by STEVEN B. WOLFSON, Clark County
21 District Attorney, by and through KAREN MISHLER, Chief Deputy District Attorney, and
22 the Court having considered the matter, including briefs, transcripts, and documents on file
23 herein, now therefore, the Court makes the following findings of fact and conclusions of law:

24 //
25 //
26 //
27 //
28 //

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

2 **PROCEDURAL HISTORY**

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

9 After several continuances at the Petitioner’s request, on March 7, 2016, a jury trial
10 convened and lasted nine days. On March 17, 2016, the jury returned a guilty verdict as to
11 Count 2, and not guilty as to all other Counts. On May 10, 2016, Petitioner was sentenced to
12 life with a possibility of parole after a term of 10 years have been served in the Nevada
13 Department of Corrections (“NDOC”). Petitioner received eight hundred forty-one (841) days
14 credit for time served. The Judgment 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 in Docket No. 70536.
17 Remittitur issued July 24, 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. On
25 August 10, 2017, the Court denied Petitioner’s Motion for Sentence Reduction, granted
26 Petitioner’s Motion for Production of Documents, Papers, Pleadings, and Tangible Property
27 of Petitioner, denied Petitioner’s Motion for Transcripts at State’s Expense, granted

28 //

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. On November 27, 2017, Petitioner filed a Motion for Ancillary
12 Services and a Motion for Transcripts and Other Court Documents and State's Expense. The
13 State filed its Opposition to Petitioner's Motion for Ancillary Services on December 13, 2017.
14 The Court denied Petitioner's Motions on December 19, 2017, and the order was filed on
15 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, in Docket No. 75825.

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, in Docket No. 77262.

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 //

1 On August 28, 2019, Petitioner filed a Motion to Amend Judgment. The court granted
2 the Motion on September 19, 2019, directing the Clerk's Office to file an Amended Judgment
3 of Conviction with no change to the language, but amending the nature of the closure of the
4 case to reflect that the case was closed after a jury-trial conviction. The Amended Judgment
5 of Conviction was filed on September 23, 2019.

6 On September 25, 2019, Petitioner filed a Motion to Amend Judgment of Conviction
7 to Include All Jail Time Credits. The State filed its Opposition on October 16, 2019. The court
8 granted the Motion on October 17, 2019, finding that Petitioner was entitled to eight hundred
9 fifty-nine (859) days credit for time served. The Second Amended Judgment of Conviction
10 was filed on October 23, 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. The
19 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.

21 On February 18, 2020, Ms. McNeill informed the Court she had provided Petitioner
22 with his file on four (4) different occasions. The Court then denied Petitioner's Motion to Hold
23 Monique McNeill, Esq., Attorney of Record in Contempt for Failing to Forward Copy of Case
24 File.

25 On February 25, 2020, Petitioner filed a Motion to Correct Illegal Sentence. The State
26 filed its Opposition to Petitioner's Motion to Correct Illegal Sentence on March 10, 2020. On
27 March 16, 2020, Petitioner filed a Memorandum of Law. On March 17, 2020, the district court
28 denied Petitioner's Motion. The Order was filed on March 26, 2020.

1 On March 30, 2020, Petitioner filed a Notice of Appeal, appealing the denial of
2 Petitioner's Motion to Correct Illegal Sentence. On April 24, 2020, the Nevada Supreme Court
3 dismissed Petitioner's appeal because Petitioner had no right to appeal the district court's
4 decision in Docket No. 80972-COA. Remittitur issued on May 21, 2020.

5 On May 29, 2020, Petitioner filed another Motion to Compel Production of Court
6 Documents by Clerk of the Court. The district court denied Petitioner's Motion on July 2,
7 2020.

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

17 On June 9, 2021, Petitioner filed a Motion to Correct Illegal Sentence. The State
18 responded June 16, 2021. Petitioner filed a Preemptive Reply to State's Opposition on June
19 22, 2021. The Motion was denied June 30, 2021. The Findings of Fact, Conclusions of Law
20 and Order was filed July 22, 2021.

21 On October 25, 2022, Petitioner filed a Petition for Writ of Habeas Corpus. On April
22 10, 2023, the State filed its Response. On May 31, 2023, Petitioner filed a Reply. On July 26,
23 2023, this Court denied the Petition, for the reasons stated as follows.

24 ANALYSIS

25 This Court finds postconviction relief is unwarranted because the Petition is
26 procedurally barred, due to being untimely, successive, and an abuse of the writ. Petitioner
27 fails to demonstrate the requisite good cause to overcome these procedural bars.

28 //

1 **I. THE PETITION IS PROCEDURALLY BARRED**

2 **a. The Petition is Time-Barred**

3 The mandatory provision of NRS 34.726(1) states:

4 Unless there is good cause shown for delay, a petition that challenges
5 the validity of a judgment or sentence must be filed *within 1 year after*
6 *entry of the judgment of conviction* or, if an appeal has been taken
7 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:

8 (emphasis added).

9 Thus, a petition challenging a judgment of conviction’s validity must be filed within
10 one year of the judgment or within one year of the remittitur, unless there is good cause to
11 excuse delay. NRS 34.726(1). The Nevada Supreme Court has held that NRS 34.726 should
12 be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528
13 (2001). The one-year time bar prescribed by NRS 34.726 begins to run from the date the
14 judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson
15 v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v. State, 117
16 Nev. 860, 873, 34 P.3d 519, 528 (2001) (holding that NRS 34.726 should be construed by its
17 plain meaning).

18 The one-year time limit for preparing petitions for post-conviction relief under NRS
19 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002),
20 the Nevada Supreme Court affirmed the rejection of a habeas petition that was filed two days
21 late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1).
22 Gonzales reiterated the importance of filing the petition with the district court within the one-
23 year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 118 Nev. at
24 593, 590 P.3d at 902. The one-year time bar is therefore strictly construed. In contrast with the
25 short amount of time to file a notice of appeal, a prisoner has an ample full year to file a post-
26 conviction habeas petition, so there is no injustice in a strict application of NRS 34.726(1). Id.
27 at 593, 53 P.3d at 903.

28 //

1 Here, remittitur from Petitioner’s direct appeal was issued on July 24, 2017. Thus, under
2 NRS 34.726 Petitioner had until July 24, 2018 to file a timely habeas petition. The instant
3 Petition was filed on October 25, 2022—more than four years after this statutory deadline.
4 Due to this failure to timely raise his habeas claims, this Court must deny the Petition, absent
5 a showing of good cause and prejudice. NRS 34.726(1).

6 **b. The Petition is Successive and an Abuse of the Writ**

7 The Petition is also procedurally barred because it is successive. NRS 34.810(2)
8 reads:

9 A second or successive petition *must* be dismissed if the judge or
10 justice determines that it fails to allege new or different grounds for
11 relief and that the prior determination was on the merits or, if new and
12 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.

13 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
14 different grounds for relief and the grounds have already been decided on the merits or that
15 allege new or different grounds but a judge or justice finds that the petitioner’s failure to assert
16 those grounds in a prior petition would constitute an abuse of the writ. Second or successive
17 petitions will only be decided on the merits if the petitioner can show good cause and prejudice.
18 NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

19 The Nevada Supreme Court has stated: “Without such limitations on the availability of
20 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
21 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
22 system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d at 950.
23 The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly require
24 a careful review of the record, successive petitions may be dismissed based solely on the face
25 of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
26 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
27 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).

28 //

1 Here, Petitioner has previously filed three postconviction petitions for writ of habeas
2 corpus—on April 24, 2018, November 19, 2018, and February 9, 2021. He has also filed
3 numerous other pleadings challenging the validity of his conviction. The claims he raises in
4 the instant Petition—that his conviction is invalid because the entirety of the Nevada Revised
5 Statutes is invalid—could have been raised in any of these prior petitions or pleadings.
6 Accordingly, the Petition is an abuse of the writ and is procedurally barred under NRS
7 34.810(2).

8 Additionally, as Petitioner could have raised his instant claim in a prior petition or on
9 direct appeal, this claim is waived pursuant to NRS 34.810(1)(b)(2). “A court must dismiss a
10 habeas petition if it presents claims that either were or could have been presented in an earlier
11 proceeding, unless the court finds both cause for failing to present the claims earlier or for
12 raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-
13 47, 29 P.3d 498, 523 (2001). Accordingly, this Court must deny the Petition in the absence of
14 a showing of good cause and prejudice. NRS 34.810(3).

15 c. The Procedural Bars are Mandatory

16 The Nevada Supreme Court has granted no discretion to the district courts regarding
17 whether to apply the statutory procedural bars. Instead, the Nevada Supreme Court has
18 emphatically and repeatedly stated that the procedural bars *must* be applied.

19 The district courts have *a duty* to consider whether post-conviction claims are
20 procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112
21 P.3d 1070, 1076 (2005). Riker held that the procedural bars “cannot be ignored when properly
22 raised by the State.” Id. at 233, 112 P.3d at 1075. Accord, State v. Huebler, 128 Nev. 192,
23 197, 275 P.3d 91, 94-95, footnote 2 (2012), cert. denied, 571 U.S. ___, 133 S.Ct. 988 (2013)
24 (“under the current statutory scheme the time bar in NRS 34.726 is *mandatory, not*
25 *discretionary*” (emphasis added)).

26 Even “a stipulation by the parties cannot empower a court to disregard the mandatory
27 procedural default rules.” State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003);
28 accord, Sullivan v. State, 120 Nev. 537, 540, footnote 6, 96 P.3d 761, 763-64, footnote 6 (2004)

1 (concluding that a petition was improperly treated as timely and that a stipulation to the
2 petition’s timeliness was invalid). The Sullivan Court “expressly conclude[d] that the district
3 court should have denied [a] petition” because it was procedurally barred. Sullivan, 120 Nev.
4 at 542, 96 P.3d at 765.

5 The district courts have zero discretion in applying the procedural bars because to allow
6 otherwise would undermine the finality of convictions. In holding that “[a]pplication of the
7 statutory procedural default rules to post-conviction habeas petitions is mandatory,” the Riker
8 Court noted:

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

12 Riker, 121 Nev. at 231, 112 P.3d at 1074.

13 Moreover, strict adherence to the procedural bars promotes the best interests of the
14 parties:

15 At some point, we must give finality to criminal cases. Should we
16 allow [petitioner’s] post conviction relief proceeding to go forward,
17 we would encourage defendants to file groundless petitions for federal
18 habeas corpus relief, secure in the knowledge that a petition for post-
19 conviction relief remained indefinitely available to them. This
20 situation would prejudice both the accused and the State since the
21 interests of both the petitioner and the government are best served if
22 post-conviction claims are raised while the evidence is still fresh.

23 Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989) (citations omitted).

24 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO** 25 **OVERCOME THE PROCEDURAL BARS**

26 To avoid procedural default, under NRS 34.726, a defendant has the burden of pleading
27 and proving specific facts that demonstrate good cause for his failure to present his claim in
28 earlier proceedings or to otherwise comply with the statutory requirements, and that he will be
unduly prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden, 109
Nev. 952, 959–60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep’t of Prisons, 104 Nev.
656, 659, 764 P.2d 1303, 1305 (1988). “A court *must* dismiss a habeas petition if it presents

1 claims that either were or could have been presented in an earlier proceeding, unless the court
2 finds both cause for failing to present the claims earlier or for raising them again and actual
3 prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001)
4 (emphasis added).

5 “To establish good cause, appellants must show that an impediment external to the
6 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
7 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119
8 Nev. 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. “A
9 qualifying impediment might be shown where the factual or legal basis for a claim was not
10 reasonably available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521,
11 525 (2003). The Court continued, “appellants cannot attempt to manufacture good cause[.]”
12 Id. at 621, 81 P.3d at 526. Examples of good cause include interference by State officials and
13 the previous unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op.
14 19, 275 P.3d 91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault
15 of the petitioner. NRS 34.726(1)(a).

16 To avoid procedural default under NRS 34.726 and NRS 34.810, a defendant has the
17 burden of pleading and proving specific facts that demonstrate good cause for his failure to
18 present his claim in earlier proceedings or comply with the statutory requirements. See Hogan,
19 109 Nev. at 959-60, 860 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305.

20 “To establish good cause, appellants *must* show that an impediment external to the
21 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
22 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
23 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external
24 impediment could be “that the factual or legal basis for a claim was not reasonably available
25 to counsel, or that ‘some interference by officials’ made compliance impracticable.”
26 Hathaway, 119 Nev. at 251, 71 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106
27 S. Ct. 2639, 2645 (1986)); see also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v.

28 //

1 Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the petition
2 must not be the fault of the petitioner. NRS 34.726(1)(a).

3 The Nevada Supreme Court has clarified that, a defendant cannot attempt to
4 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there
5 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71
6 P.3d at 506; (quoting Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the
7 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel
8 to forward a copy of the file to a petitioner have been found not to constitute good cause. See
9 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as
10 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,
11 111 Nev. 335, 890 P.2d 797 (1995).

12 Here, Petitioner fails entirely to plead or demonstrate good cause for his failure to
13 comply with the procedural rules. This failure necessitates the wholesale rejection of his
14 claims, as it is Petitioner’s burden to plead specific facts demonstrating good cause. Riker, 121
15 Nev. at 232, 112 P.3d at 1075; see also Haberstroh, 119 Nev. at 181, 69 P.3d at 681; Bejarano
16 v. Warden, 112 Nev. 1466, 1471, 929 P.2d 922, 925 (1996); Hargrove v. State, 100 Nev. 498,
17 502-03, 686 P.2d 222, 225 (1984).

18 In Ground 3, Petitioner does appear to suggest that he had difficulties in obtaining
19 evidence. He fails to specify what evidence that would have been, or why it was necessary for
20 him to present his claims. Considering that his claim is that the entirety of the Nevada Revised
21 Statutes are unconstitutional and invalid, it does not appear any case evidence would be
22 relevant to this claim, which is largely based upon misinterpretations of legislative history and
23 case law. Accordingly, Petitioner has failed to demonstrate good cause to overcome the
24 procedural bars, and this Court must deny the Petition.

25 //

26 //

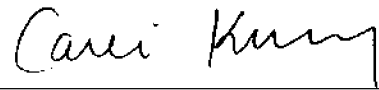
27 //

28 //

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and it is, hereby denied.

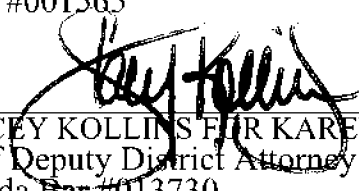
Dated this 3rd day of August, 2023



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

F80 4A0 06EE EC42
Carli Kierny
District Court Judge

BY



STACEY KOLLINS FOR KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

sar/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)

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 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: 8/3/2023

17 maria case-bateson

18 maria.case-bateson@clarkcountyda.com

Steven D. Grierson

Justin O. Langford-1159546

LCC, 1200 Prison Road

Love Lock, Nev. 89419

E-Mail: N/A

Phone: N/A

Fax: N/A

DISTRICT COURT
CLARK COUNTY, NEVADA

Justin O. Langford,
Petitioner,

CASE No. A-18-784811-W

DEPT No. II

vs.

Warden Tim Garrett,
Respondent,

NOTICE OF APPEAL

COMES Now Justin Odell Langford, in Pro per, to
file his Notice of Appeal Challenging the denial of
his Petition for Writ of Habeas Corpus that was
entered on July 31ST, 2023 by dist. Ct. Judge
Karli Kierney in Dept. II

Respectfully Submitted
Justin Odell Langford
Justin Odell Langford
Petitioner/Paralegal

CLERK OF THE COURT

AUG 14 2023

RECEIVED

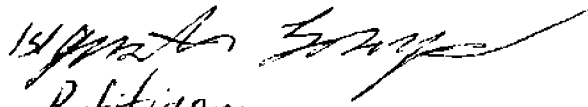
(1)

817

VERIFICATION

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

DATE: 8-6-23

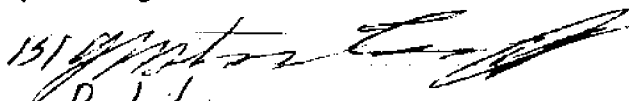

Petitioner

CERTIFICATE OF SERVICE

I, Certify, that I have attached a true and correct copy, with special ~~certificate~~ instructions to clerk of the court to E-file and E-Serve all of my opponents pursuant to N. E. F. C. R. 9 et seq. (A-E) Etc, to the following:

Steven Wolfson Clrk, Cnty. D.A.

DATE: 8-6-23


Petitioner

Justin Odell Lingford-1159546
LCC, 1200 Prison Rd
Lovebock, Nev. 89419

RECEIVED

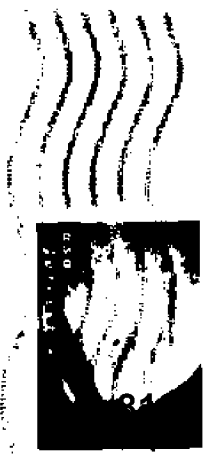
AUG 14 2023

CLERK OF THE COURT

**NEVADATE LEGAL
MAIL CONFIDENTIAL**

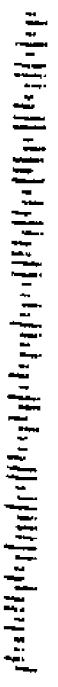
SEND MY 2025

081 AUG 2023 PM 3 4



8th Jud. Dist. Ct.
ATTN: Clerk of the Court
200 Lewis Ave.
Las Vegas, Nev. 89155

8910138300 0075





1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

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: II

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Justin Odell Langford

19 2. Judge: Carli Kierny

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**: N/A
12 **Expires 1 year from date filed
13 Appellant Filed Application to Proceed in Forma Pauperis: N/A
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, 84284
23
24 12. Child Custody or Visitation: N/A
25
26 13. Possibility of Settlement: Unknown

27 Dated This 16 day of August 2023.

28 Steven D. Grierson, Clerk of the Court

29 /s/ Cierra Borum

30 Cierra Borum, Deputy Clerk
31 200 Lewis Ave
32 PO Box 551601
33 Las Vegas, Nevada 89155-1601
34 (702) 671-0512

35 cc: Justin Odell Langford
36
37
38

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 28, 2019

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

**January 28, 2019 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan
Dara Yorke

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Villani, Jacob J. Attorney

JOURNAL ENTRIES

- Court indicated it had reviewed Plaintiff's Petition for Writ Of Habeas Corpus, as well as the State's Response. Finding that oral argument was not necessary due to its review of the pleadings, COURT ORDERED, Petition DENIED WITHOUT PREJUDICE for all of the reasons set forth in the State s response. Court indicated the State was to prepare the order, including the reasons from the response and submit it directly to the Court.

CLERK'S NOTE: A copy of this minute order was mailed to the Petitioner Justin Langford (1159546) Lovelock Correctional Center 1200 Prison Road Lovelock, NV 89419.// 1-30-19/ dy

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 03, 2019

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

April 03, 2019 9:00 AM Motion to Strike

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Given the filing of the Judicial Notice, COURT ORDERED the instant Motion was hereby VACATED as MOOT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 19, 2021

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

May 19, 2021 11:00 AM All Pending Motions

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK:
Carolyn Jackson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Raman, Jay Attorney
State of Nevada Defendant

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS . . . PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING

Plaintiff is in custody of the Nevada Department of Corrections and not transported.

Court stated it would not hear oral arguments regarding the Petition for Writ of Habeas Corpus. Court stated regarding the Petition for Writ of Habeas Corpus the Petition is DENIED. Court finds the Petition is time-barred pursuant to NRS 34.726. The one-year time period begins to run from the date of conviction, *Jefferson v. State*, 114 Nev. 1084, 967 P.2d 1132 (1998). The one-year time period should be strictly applied under *Gonzalez v. State*, 118 Nev. 590, also at 53 P.3d 901 (2002). The application of the procedural bar is mandatory under *State v. Eighth Judicial District Court (Riker)*, 121 Nev. 225, 112 P.3d 1070 (2005). Here, the Petitioner's Writ is over three years late. The Petitioner has not shown good cause for the delay. The Petitioner must show that an impediment extended to the defense preventing his compliance with the procedural rule. *Clinton v. State*, 119 Nev. 615, 81

PRINT DATE: 08/28/2023

Page 5 of 12

Minutes Date: January 28, 2019

P.3d 521 (2003). Petitioner here has not put forth any evidence to show that good cause exist. The Court further finds here Petitioner claim is incoherent and vague and do not therefore, warrant relief for post conviction must be support with the factual allegations. Hargrove v. State 100 Nev. 498, 686 P.2d 222 (1984). Moreover, the Court has previously denied Petitioner's post-conviction petition. Additionally, the claim that this Court does not have subject matter jurisdiction is not supported by the evidence or any caselaw. With regards to Petitioner's claim and request for evidentiary hearing, the Court finds that there is no sixth amendment constitutional right to counsel in post-conviction proceedings. Coleman v. Thompson, 501 U.S. 722 (1991), 111 S. Ct. 2546 (1991). Nevada courts have also ruled that the Nevada Constitution does not provide for a right for post-conviction counsel either under McCabe v. Warden 112 Nev. 159, 912 P.2d (1996). Nevada courts do have the discretion to appoint counsel if the court is satisfied that the individual is indigent and the petition cannot be dismissed summarily under NRS 34.750. In making this determination, the court can consider (1) whether the issues are difficult, (2) defendant is unable to comprehend the proceeding and (3) whether counsel is unable to proceed with discovery. The Court finds here that although the Defendant is indigent if he is in the prison that the petition can be dismissed summarily and thus, the Petitioner is not entitled to counsel and therefore, the Motion to Appoint Counsel is DENIED. The Court also finds that there is no basis for an evidentiary hearing and thus, does not entitled the Plaintiff to relief so the request for evidentiary hearing is therefore, DENIED. State to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

July 19, 2021

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

July 19, 2021 11:00 AM Motion

HEARD BY: Lilly-Spells, Jasmin

COURTROOM: RJC Courtroom 12D

COURT CLERK:

Rem Lord

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT NOTED Mr. Langford was not transported. COURT stated findings and ORDERED, Plaintiff's Motion for Request in Status Check and Copy of Court Docket Sheet taken OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

July 26, 2023

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

**July 26, 2023 9:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Kierny, Carli **COURTROOM:** RJC Courtroom 12B

COURT CLERK:
Jessica Sancen

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Cobb, Tyrus Attorney

JOURNAL ENTRIES

- COURT ORDERED, 8/7/23 MOTION ADVANCED AND DENIED as to Deft. does not need to be transported. COURT FURTHER ORDERED, PETITION DENIED as to the merits. Court directed State to prepare order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 21, 2023

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

August 21, 2023 9:30 AM Motion

HEARD BY: Kierny, Carli **COURTROOM:** RJC Courtroom 12B

COURT CLERK:
Jessica Sancen

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Sharp, Tanner L. Attorney

JOURNAL ENTRIES

- Court noted no further action required and Deft's Motion was filed.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated August 21, 2023, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises four volumes with pages numbered 1 through 833.

JUSTIN ODELL LANGFORD,

Plaintiff(s),

vs.

WARDEN RENEE BAKER,

Defendant(s),

Case No: A-18-784811-W

Dept. No: II

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 28 day of August 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

