

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Feb 09 2024 01:34 PM
Elizabeth A. Brown
Clerk of Supreme Court

DEMARENE COLEMAN,
Appellant(s),

vs.

STATE OF NEVADA,
Respondent(s),

Case No: A-23-879247-W

Docket No: 87992

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
DEMARENE COLEMAN #107335,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
AARON D. FORD,
ATTORNEY GENERAL
555 E. WASHINGTON AVE., STE. 3900
LAS VEGAS, NV 89101-1068

A-23-879247-W Demarene Coleman, Plaintiff(s) vs. Nevada State of, Defendant(s)

I N D E X

VOLUME: **PAGE NUMBER:**

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I N D E X

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DEMARENE COLEMAN
1007335
Petitioner / In Proper Person
P.O. Box 208
Indian Springs, NV 89070-0208

FILED

OCT 09 2023

Alanna A. Flinn
CLERK OF COURT

EIGHT JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DEMARENE COLEMAN

Petitioner

Case Nos.

A-23-879247-W

v.

Dept. 24

Dept. No.

State of Nevada, et al.
Respondents

PETITION FOR WRIT OF MANDAMUS / PROHIBITION
(NRS 34.150 thru 34.320)

DEMARENE COLEMAN, Petitioner in proper person, under penalty of perjury, being
duly sworn, deposes and says:

There is no appeal from Respondent's actions and that Petitioner has no other
plain, speedy, or adequate remedy other than Mandamus/ Prohibition.

Dated this 29 day of SEPTEMBER, 2023

Submitted by: DEMARENE COLEMAN
* D. Coleman # 1007335
Petitioner / In Proper Person

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OCT 04 2023

CLERK OF THE COURT

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JURISDICTION

Jurisdiction of this Court is invoked pursuant to NRS 34.150 thru NRS 34.320, Petitioner submits that mandamus/ prohibition is the proper vehicle, since the controversy Petitioner is contending is not a challenge to his conviction:

Although courts have extended the scope of habeas corpus to embrace an Eighth Amendment violation occurring during their confinement following valid conviction. See Coffin v. Reichard 143 F.2d 443, 155 ALR 143 (6th Cir. 1194), Scate ex rel Col. v. Tahash 269 Minn. 1, 129 NW 2.d 904 (1964), In Re Roddle 57 Ca. 2d 840, 22 CA Reporter 472, 372 P.2d 304 (1962) This Court has chosen not to do so, since the post-conviction remedies of NRS Chapters 34 and 177 are in fact available to challenge the conviction, sentence or restraint. However, in this instant case the Petitioner claims that there is no redress available, and has no other option other than Mandamus/ Prohibition. See State v. Wright, (1875), 10 Nev.167, Goicoechea v. Fourth Judicial Court In and For Elko County, (1980), 607 P.2d 567, Russell v. Thompson, (1980), 619 P.2d 537 , Margold v. Eighth Judicial District Court In and For The County of Clark, 858 P.2d 33 (1993), Ashokan v. State Dept. of Ins. ., 856 P.2d 244 (1993) , State v. Eighth Judicial District Court In and For The County of Clark, 997 P.2d 126 (2000) and Mineral County v. State Dept. of Conservation and Natural Resources, 20 P.3d 800 (2001).

1 I AM ASKING FOR INJUNCTIVE RELIEF UNDER THE REVISED
2 STATUTES OF SENATE BILL NO. 413 (NRS 209.341) AN ACT
3 RELATING TO SENTENCING; REVISING THE METHOD FOR
4 DETERMINING CREDITS TO REDUCE THE SENTENCE OF AN
5 OFFENDER; REQUIRING THE DIRECTOR OF THE DEPARTMENT
6 OF CORRECTIONS TO PROVIDE AN OFFENDER WITH A LIST OF
7 CERTAIN PROGRAMS REQUIRING THE DIRECTOR TO
8 SHARE INFORMATION WITH THE OFFICE OF THE ATTORNEY
9 GENERAL CONCERNING ACTIONS TAKEN ACCORDINGLY
10 THIS BILL PROVIDES A REVISED METHOD FOR DETERMINING CREDITS
11 TO REDUCE THE SENTENCE OF AN OFFENDER THAT APPLIES
12 TO AN OFFENDER SENTENCED TO PRISON FOR A CRIME
13 COMMITTED: (1) ON OR AFTER JULY 1, 2025; OR (2) BEFORE
14 JULY 1, 2025 IF THE OFFENDER ELECTS TO BE SUBJECT
15 TO THE REVISED METHOD.

16 I AM ELECTING TO BE SUBJECTED TO THE REVISED
17 STATUTES AFFORDED ME IN SB413 NRS 209.341 SECTIONS
18 1 THROUGH 10 RESPECTIVELY

19
20 9-29-23

21
22 UNDER PENALTY OF PERJURY ALL THE FOREGOING IS
23 TRUE TO MY KNOWLEDGE.

24
25 DEMARENE COLEMAN
26 x.d. Coleman # 1007335

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CERTIFICATE OF SERVICE BY MAILING

I, DEMARENTE COLEMAN, hereby certify, pursuant to NRC 5(b), that on this 29
day of SEPTEMBER, 2023 I mailed a true and correct copy of the foregoing, "

PETITION FOR WRIT OF HABEAS CORPUS / Prohibition "

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

<u>WARDEN OLIVER</u>	<u>REGIONAL JUSTICE CENTER</u>
<u>SOUTHERN DESERT CORRECTIONAL CENTER</u>	<u>CLERK OF COURT</u>
<u>20825 Cold Creek Rd</u>	<u>208 LEWIS AVENUE</u>
<u>P.O. Box 208</u>	<u>LAS VEGAS, NV 89155</u>
<u>INDIAN SPRINGS, NV 89070</u>	

_____	<u>DEMARENTE COLEMAN</u>
_____	<u>P.O. Box 208</u>
_____	<u>INDIAN SPRINGS, NV 89070</u>
_____	_____

CC: FILE

DATED: this 29 day of SEPTEMBER, 2023

X DEMARENTE COLEMAN
20, Coleman # 1507335
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

PETITION FOR WRIT OF MANDAMUS/Prohibition
(Title of Document)

filed in District Court Case number _____

Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

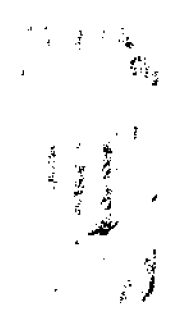
B. For the administration of a public program or for an application for a federal or state grant.

X D Coleman
Signature

9-29-23
Date

DEMARENSE COLEMAN
Print Name

Pro PER
Title



DEMARENE COLEMAN 1007335
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 891070



LAS VEGAS NV 890
2 OCT 2023 PM 5 L

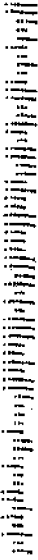
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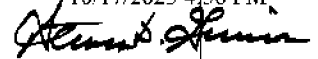
OCT 04 2023

CLERK OF THE COURT

REGIONAL JUSTICE CENTER
CLERK OF COURT
200 LEWIS AVENUE
LAS VEGAS, NV 89155

99104-830000





CLERK OF THE COURT

1 OPWM

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

5
6 Demarene Coleman,

7 Plaintiff(s),

8 vs.

9 Nevada State of,

10 Defendant(s),

Case No: A-23-879247-W
Department 24

**ORDER FOR PETITION FOR
WRIT OF MANDAMUS**

11 Petitioner filed a Petition for Writ of Mandamus (NRS 34.150 thru 34.320) October 9, 2023.

12 The Court has reviewed the petition and has determined that a response would assist the Court.

13 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,
14 answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS
15 34.360 to 34.830, inclusive.

16 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's
17 Calendar on the 27th day of December, 2023, at the hour of 9:30 am, for further proceedings.

18
19
20 Dated this 17th day of October, 2023



21
22 District Court Judge

23 **466 A3B A57F 8341**
Erika Ballou
District Court Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on or about the date filed, a copy of this Order was served via Electronic
3 Service to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, and/or served
4 via in one or more of the following manners: fax, U.S. mail, or a copy of this Order was placed in the
attorney's file located at the Regional Justice Center:

5
6 **ALL REGISTERED COUNSEL/PARTIES SERVED VIA E-SERVICE**

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10 */s/ Chapri Wright*
11 CHAPRI WRIGHT
12 Judicial Executive Assistant
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1 **CSERV**

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

5	
6 Demarene Coleman, Plaintiff(s)	CASE NO: A-23-879247-W
7 vs.	DEPT. NO. Department 24
8 Nevada State of, Defendant(s)	
9	

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order for Petition for Writ of Habeas Corpus was served via the court's
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as
14 listed below:

14 Service Date: 10/17/2023

15 AG 1	rgarate@ag.nv.gov
16 Karen Mishler	Karen.Mishler@clarkcountyda.com
17 AG 2	jstilz@ag.nv.gov

19 If indicated below, a copy of the above mentioned filings were also served by mail
20 via United States Postal Service, postage prepaid, to the parties listed below at their last
21 known addresses on 10/18/2023

22 Demarene Coleman	#1007335
	PO Box 208
	Indian Springs, NV, 89070



1 **RSPN**
AARON D. FORD
2 Attorney General
3 BROOKE D. GEORGUSON (Bar No. 16406)
Deputy Attorney General
State of Nevada
4 Office of the Attorney General
100 N. Carson St.
5 Carson City, NV 89701
(775) 684-1257 (phone)
6 (775) 684-1108 (fax)
bgeorguson@ag.nv.gov
7 *Attorneys for Respondent*

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

10 DEMARENE COLEMAN,
11 Petitioner,
12 vs.
13 STATE OF NEVADA, *et al.*¹
14 Respondent.

Case No. A-23-879247-W
Dept. No. XXIV

Date of Hearing: 12/27/23
Time of Hearing: 9:30am

16 **RESPONSE TO PETITION FOR WRIT OF MANDAMUS**

17 Respondents oppose Petitioner Demarene Coleman’s (Coleman) *Petition for Writ of Mandamus*
18 filed on October 9, 2023. Coleman seeks relief that does not yet exist and therefore he fails to state a
19 claim for which relief can be granted. Further, even if Coleman’s request were cognizable, a writ of
20 mandamus is not the appropriate vehicle here, and Coleman must file a habeas petition if he wishes to
21 challenge his time computation. Respondents base this response upon the papers and pleadings on file
22 herein and the following Memorandum of Points and Authorities.

23 **RESPECTFULLY SUBMITTED** this 1st day of December, 2023.

AARON D. FORD
Attorney General

24 By: /s/ Brooke D. Georguson
25 **BROOKE D. GEORGUSON** (Bar No. 16406)
26 Deputy Attorney General

27
28 ¹ Under NRS 34.370(2), the proper respondent in a post-conviction habeas petition is the “officer or other person by whom the petitioner is confined or restrained.” Undersigned counsel does not represent the State of Nevada –which is not “an officer or other person”– but instead represents the Respondent warden.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **BACKGROUND**

3 Coleman is currently incarcerated in Southern Desert Correctional Center. *See* Exhibit 1, *Inmate*
4 *Search*. Coleman is actively serving a sentence arising from criminal acts he committed in 2005. *See*
5 Exhibit 2, *Second Amended Information*.

6 On August 14, 2007, the Court adjudicated Coleman guilty of Count 1 – First Degree Murder, a
7 category A felony; and Count 2 – Battery with Use of a Deadly Weapon. *See* Exhibit 3, *Judgment of*
8 *Conviction*. On Count 1, the Court sentenced Coleman to incarceration for a maximum term of fifty
9 years, with a minimum parole eligibility of twenty years. *See id.* On Count 2, the Court sentenced
10 Coleman to incarceration for a maximum term of 120 months, with a minimum parole eligibility of forty-
11 eight months, running concurrent with Count 1. *See id.* Coleman has discharged his sentence on Count
12 2. *See* Exhibit 1. Coleman received seven hundred and fifty-five days credit for time served. *See* Exhibit
13 3.

14 **ARGUMENT**

15 **A. Coleman Seeks Non-Existent Relief Pursuant to SB 413.**

16 Coleman seeks relief that does not yet exist based upon a mistaken understanding of recently
17 passed legislation. During the 2023 legislative session, the Nevada Legislature passed Senate Bill (SB)
18 413, which will give petitioners the option to elect to a different method for credit calculation. *See* SB
19 413, §1(1). However, while this bill passed, for purposes of credit calculation it does not become
20 effective until July 1, 2025. *See id.* at §11(3) (specifying that the bill became effective upon passage for
21 purposes of administrative/regulatory tasks, but does not become effective until July 1, 2025, for all
22 other purposes).

23 Coleman’s challenge to his time credit calculation based on SB 413 is therefore not a cognizable
24 basis for writ of mandamus. Coleman has no right to credit calculation under SB 413 as it is not yet in
25 effect. Consequently, the Court should dismiss Coleman’s petition.

26 ///

27 ///

28 ///

1 **B. A Writ of Mandamus Is Not the Proper Remedy Since Coleman Is Not Entitled to**
2 **Relief.**

3 Even if Coleman’s claim was cognizable, a writ of mandamus would not be the proper remedy.
4 A writ of mandamus is a judicial remedy available only for a superior court to compel a subordinate
5 court or public authority to perform a lawful act. This Court may issue a writ of mandamus “to compel
6 the performance of an act which the law especially enjoins as a duty resulting from an office, trust, or
7 station,” or to control a manifest abuse of or arbitrary or capricious exercise of discretion. NRS 34.160;
8 *Rugamas v. Eighth Jud. Dist. Ct.*, 129 Nev. 424, 430 (2013) (citing *Round Hill Gen. Improvement Dist.*
9 *v. Newman*, 97 Nev. 601, 603-04 (1981)).

10 However, to justify the issuance of a writ of mandamus to enforce the performance of an act by
11 a public officer, the act must be one that the law requires as a duty resulting from the office, and there
12 must be an actual omission on the part of the officer to perform it. *Mineral County v. Dep’t of Conserv.*
13 *& Natural Res.*, 117 Nev. 235, 243 (2001); *Brewery Arts Center v. State Bd. Of Examiners*, 108 Nev.
14 1050, 1054 (1992); *Ex rel. Blake v. County Comm’rs*, 48 Nev. 299, 304 (1924). An *actual default or*
15 *omission* of a duty is an essential prerequisite to the issuance of a writ of mandamus as is the lack of an
16 adequate remedy in the ordinary course of the law. *State ex rel. Lawton v. Public Serv. Comm’n*, 44 Nev.
17 102, 108, 112 (1920). Mandamus will not issue unless the petitioner shows a clear legal right to the relief
18 demanded. *Blake*, 48 Nev. at 304. Mandamus will lie to compel an officer or tribunal exercising judicial
19 functions to act, but never to review or correct such judicial acts, however erroneous they may be. *York*
20 *v. Board of County Comm’rs*, 89 Nev. 173, 174 (1973); *State v. Eighth Judicial Dist. Court*, 116 Nev.
21 127, 133 (2000).

22 Here, as detailed above, the relief Coleman seeks does not exist because SB 413 does not become
23 effective until July 1, 2025. A mandamus action requires a right to relief and some entity that failed to
24 act in accordance with the law. *See* NRS 213.10705; *see also Goldsworthy*, 86 Nev. at 256. Since
25 Coleman cannot show a right to this new credit calculation under SB 413 nor a failure of the NDOC to
26 act, he is not eligible for mandamus relief.

27 ///

28 ///

1 **C. Coleman May Not Use a Mandamus Petition to Challenge His Time Computation.**

2 Mandamus is an extraordinary remedy, and the decision to entertain a petition lies within the
3 discretion of this Court. *Hickey v. District Court*, 105 Nev. 729, 731 (1989). A writ may not issue where
4 the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. NRS
5 34.724(2)(c) provides that a writ of habeas corpus is the exclusive remedy available to challenge the
6 computation of time against a person’s conviction.

7 Coleman is improperly attempting to utilize a mandamus petition to challenge his time
8 computation. His mandamus challenge fails as he has a plain, speedy, and adequate remedy available in
9 the form of a habeas petition. Moreover, a habeas challenge is the sole means for him to bring forth time
10 computation claims. For this additional reason, Coleman’s mandamus petition must be dismissed.

11 **CONCLUSION**

12 This Court should deny Coleman’s Petition for Writ of Mandamus because his Petition is not
13 cognizable, nor is a writ of mandamus an appropriate remedy here.

14 RESPECTFULLY SUBMITTED this 1st day of December, 2023.

15 AARON D. FORD
16 Attorney General

17 By: /s/ Brooke D. Georguson
18 BROOKE D. GEORGUSON (Bar No. 16406)
19 Deputy Attorney General
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INDEX OF EXHIBITS

EXHIBIT NO.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
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2.	Second Amended Information	2
3.	Judgment of Conviction	2

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 1st day of December, 2023, I caused to be deposited for mailing a true and correct copy of the foregoing **RESPONSE TO PETITION FOR WRIT OF MANDAMUS**, to the following:

Demarene Coleman # 1007335
c/o Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070

/s/ Carrie Crago

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EXHIBIT 1

Inmate Search

EXHIBIT 1

Search By Offender ID

Offender ID: 1007335

-or-

Search By Demographics

First Name:

Wildcard %

Last Name:

Wildcard %

Submit

NOTICE:

The information provided here represents raw data. As such, the Nevada Department of Corrections makes no warranty or guarantee that the data is error free. The information should not be used as an official record by any law enforcement agency or any other entity.

Any questions regarding an inmate, please call Family Services at (775) 977-5707. Victims looking for inmate information please contact Victim Services at (775) 977-5733. Any questions regarding the web portal for law enforcement access to inmate information should be referred to Acting PIO Bill Quenga. email: wquengia@doc.nv.gov or (775) 977-5699

Currently the following web browsers are supported for the Inmate Search: Internet Explorer 11, Chrome, Firefox and Opera. If you are unable to view inmate photos, please use a supported browser.

Download Offender Data

[Demographic](#), [Alias](#), [Booking](#), [Parole](#), [Release](#)

Up to date as of 2023-10-27

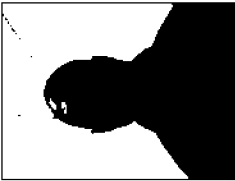
Identification and Demographics

DEWARENE COLEMAN	1007335	Male	NOT HISPANIC	38	5'6"	1151b	MEDIUM	DARK	BLACK	BROWN	SOUTHERN DESERT CORRECTIONAL CENTER	MEDIUM	DEMARINE ANDREW COLEMAN, DAMARENE COLEMAN, D, DEMARIEN ANDREW COLEMAN, CHIP	NO
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Booking Information

148	BATTERY W/ DEADLY WEAPON	Discharged	0 yr. 0 mo. 0 days	48	0 yr. 0 mo. 0 days	120	2009-07-18	2011-08-10	CLARK COUNTY COURTHOUSE	CLARK COUNTY COURTHOUSE	DETERMINATE	2005-07-19
92	MURDER 1ST DEGREE	Active	20 yr. 0 mo. 0 days	0	50 yr. 0 mo. 0 days	0	2025-07-19	2032-08-25	CLARK COUNTY COURTHOUSE	CLARK COUNTY COURTHOUSE	DETERMINATE	2005-07-20

Inmate Photo



Parole Hearing Details Unavailable

EXHIBIT 2

Second Amended Information

EXHIBIT 2

ORIGINAL

FILED IN OPEN COURT

MAY 29 2007 20

CLARENCE J. SHORT
CLERK OF THE COURT

PV

SANDRA JETER DEPUT

1 AINF
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

Case No. C215295
Dept No. V

12 -vs-

13 DEMARENE COLEMAN,
14 #1963947
15 Defendant.

SECOND AMENDED
INFORMATION

16 STATE OF NEVADA }
17 COUNTY OF CLARK } ss:

18 DAVID ROGER, District Attorney within and for the County of Clark, State of
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That DEMARENE COLEMAN, the Defendant(s) above named, having committed
21 the crimes of **FIRST DEGREE MURDER (Category A Felony - NRS 200.010, 200.030)**
22 and **BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS**
23 **200.481)**, on or about the 10th day of July, 2005, within the County of Clark, State of
24 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
25 and against the peace and dignity of the State of Nevada,

26 COUNT 1 - FIRST DEGREE MURDER

27 did then and there wilfully, feloniously, without authority of law, and with
28 premeditation and deliberation, and with malice aforethought, kill TANZIE AUSTIN, a

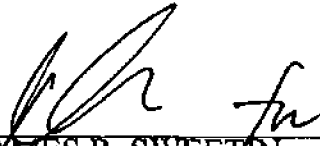
1 human being, by defendant shooting at and into the body of the said TANZIE AUSTIN.

2 COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON

3 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
4 person of another, to-wit: MONICA RAMSEY and/or ANDREA COOPER, with use of a
5 deadly weapon, to-wit: defendant shooting at and into the body of the said MONICA
6 RAMSEY and/or ANDREA COOPER.

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DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY 

JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

DA#05F15000A/sam
LVMPD EV#0507100530
MURD;BWDW - F
(TK4)

EXHIBIT 3

Judgment of Conviction

EXHIBIT 3

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JOCP

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C. [Signature]
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN
#1963947

Defendant.

CASE NO. C215295

DEPT. NO. V

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – FIRST DEGREE MURDER

(Category A Felony) in violation of NRS 200.010, 200.030, and COUNT 2 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.481;

thereafter, on the 14TH day of August, 2007, the Defendant was present in court for sentencing with his counsel CARMINE COLUCCI, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee, the Defendant is sentenced to

the Nevada Department of Corrections (NDC) as follows: as to COUNT 1 - to a

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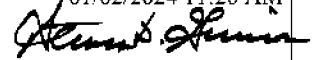
AUG 22 2007

CLERK OF THE COURT

1 MAXIMUM of FIFTY (50) YEARS with a MINIMUM parole eligibility of TWENTY (20)
2 YEARS; as to COUNT 2 - to a MAXIMUM of ONE HUNDRED TWENTY (120)
3 MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS, to run
4 CONCURRENT with Count 1; with SEVEN HUNDRED FIFTY-FIVE (755) DAYS credit
5 for time served.
6

7
8 DATED this 20 day of August, 2007.
9

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11 
12 JACKIE GLASS
13 DISTRICT JUDGE
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CLERK OF THE COURT

1 **DAO**

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

6 DEMARENE COLEMAN,

7 Petitioner,

8 vs.

9 STATE OF NEVADA, *et al.*

10 Respondent.

Case No. A-23-879247-W

Dept. No. XXIV

11
12 **DECISION AND ORDER**

13 This matter having come before the Court this 21st day of December, 2023; the Court having
14 reviewed Petitioner Demarene Coleman’s (Coleman) *Petition for Writ of Mandamus* (“Petition”) filed
15 on October 9, 2023, and the response thereto; neither party was present and the Court did not entertain
16 oral argument, but makes its decision based solely upon the pleadings, without the need of an evidentiary
17 hearing, pursuant to NRS 34.770.

18 THE COURT FINDS that Coleman is currently incarcerated in Southern Desert Correctional
19 Center.

20 THE COURT FURTHER FINDS that Coleman is serving an active sentence for crimes he
21 committed in 2005.

22 THE COURT FURTHER FINDS that the Court adjudicated Coleman guilty of Count 1 – First
23 Degree Murder, a category A felony; and Count 2 – Battery with Use of a Deadly Weapon. On Count 1,
24 the Court sentenced Coleman to incarceration for a maximum term of fifty years, with a minimum parole
25 eligibility of twenty years. On Count 2, the Court sentenced Coleman to incarceration for a maximum
26 term of 120 months, with a minimum parole eligibility of forty-eight months, running concurrent with
27 Count 1. Coleman has discharged his sentence on Count 2.

28 ///

1 THE COURT FURTHER FINDS that Coleman filed a Petition for Writ of Mandamus seeking a
2 recalculation of his time pursuant to Senate Bill (SB) 413.

3 WHEREFORE, THE COURT CONCLUDES that while SB 413 passed in the 2023 Nevada
4 legislative session and, once effective, will allow petitioners the option elect to a different method of
5 time computation, the bill is not yet effective for this purpose. SB 413 is in effect for certain
6 administrative/regulatory tasks, but for purposes of credit calculation it does not become effective until
7 July 1, 2025. *See* SB 413 at §11(3).

8 THE COURT FURTHER CONCLUDES that because SB 413 is not currently in effect for time
9 computation purposes, no relief exists yet. Coleman therefore seeks relief that cannot be granted by this
10 Court, rendering this claim MOOT.

11 THE COURT FURTHER CONCLUDES that this Court will only issue a writ of mandamus “to
12 compel the performance of an act which the law especially enjoins as a duty resulting from an office,
13 trust, or station,” or to control a manifest abuse of or arbitrary or capricious exercise of discretion. NRS
14 34.160; *Rugamas v. Eighth Jud. Dist. Ct.*, 129 Nev. 424, 430 (2013) (citing *Round Hill Gen.*
15 *Improvement Dist. v. Newman*, 97 Nev. 601, 603-04 (1981)). To compel the performance of an act, the
16 act must be one that the law requires as a duty resulting from the office, and there must be an actual
17 omission on the part of the officer to perform it. *Mineral County v. Dep’t of Conserv. & Natural Res.*,
18 117 Nev. 235, 243 (2001); *Brewery Arts Center v. State Bd. Of Examiners*, 108 Nev. 1050, 1054 (1992);
19 *Ex rel. Blake v. County Comm’rs*, 48 Nev. 299, 304 (1924); *State ex rel. Lawton v. Public Serv. Comm’n*,
20 44 Nev. 102, 108, 112 (1920). Mandamus will not issue unless the petitioner shows a clear legal right to
21 the relief demanded. *Blake*, 48 Nev. at 304.

22 THE COURT FURTHER CONCLUDES that a writ of mandamus is not appropriate here since
23 Coleman fails to show a right to relief under SB 413. Coleman also fails to show a failure of the NDOC
24 to act in accordance with SB 413.

25 THE COURT FURTHER CONCLUDES that mandamus is an extraordinary remedy, and the
26 Court will not issue a writ of mandamus where the petitioner has a plain, speedy, and adequate remedy
27 in the ordinary course of law. *Hickey v. District Court*, 105 Nev. 729, 731 (1989); NRS 34.170. NRS
28 34.724 allows petitioners to challenge their time computations through a petition for writ of habeas

1 corpus. Coleman therefore already has a plain, speedy, and adequate remedy in the ordinary course of
2 law through a petition for writ of habeas corpus.

3 THE COURT FURTHER CONCLUDES that NRS 34.724(2)(c) provides that a writ of habeas
4 corpus is the exclusive remedy available to challenge the computation of time against a person's
5 conviction. Coleman is improperly attempting to utilize a mandamus petition to challenge his time
6 computation, but he is prohibited from seeking such relief through a mandamus petition. See NRS
7 34.724(2)(c).

8 THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Demarene
9 Coleman's Petition for Writ of Mandamus is DENIED.

10 Dated this 2nd day of January, 2024

11 

12 The Honorable Judge Erika Ballou
13 District Court Judge **6D4 133 8C21 2048**
Erika Ballou
District Court Judge

14 Respectfully Submitted by:

15 /s/ Brooke D. Georguson
16 Brooke D. Georguson (16406)
17 Deputy Attorney General
18 Office of the Nevada Attorney General
19 100 North Carson Street
20 Carson City, Nevada 89701-4717
21 Telephone: (775) 684-1257
22 Facsimile: (775) 684-1108
23 bgeorguson@ag.nv.gov
24
25
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1 **CSERV**

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

5	
6 Demarene Coleman, Plaintiff(s)	CASE NO: A-23-879247-W
7 vs.	DEPT. NO. Department 24
8 Nevada State of, Defendant(s)	
9	

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/2/2024

15 Carrie Crago	ccrago@ag.nv.gov
16 AG 1	rgarate@ag.nv.gov
17 Karen Mishler	Karen.Mishler@clarkcountyda.com
18 AG 2	jstilz@ag.nv.gov
19 Brooke Georguson	bgeorguson@ag.nv.gov
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2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 DEMARENE COLEMAN,

6 Petitioner,

Case No: A-23-879247-W

Dept. No: XXIV

7 vs.

8 STATE OF NEVADA,

9 Respondent,

10 **NOTICE OF ENTRY OF ORDER**

11 **PLEASE TAKE NOTICE** that on January 2, 2024, 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 January 4, 2024.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

18
19 CERTIFICATE OF E-SERVICE / MAILING

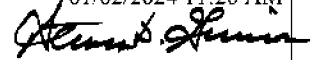
20 I hereby certify that on this 4 day of January 2024, I served a copy of this Notice of Entry on the
21 following:

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 Demarene Coleman # 1007335
P.O. Box 208
26 Indian Springs, NV 89070

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

1 **DAO**

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

6 DEMARENE COLEMAN,

7 Petitioner,

8 vs.

9 STATE OF NEVADA, *et al.*

10 Respondent.

Case No. A-23-879247-W

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17 hearing, pursuant to NRS 34.770.

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19 Center.

20 THE COURT FURTHER FINDS that Coleman is serving an active sentence for crimes he
21 committed in 2005.

22 THE COURT FURTHER FINDS that the Court adjudicated Coleman guilty of Count 1 – First
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25 eligibility of twenty years. On Count 2, the Court sentenced Coleman to incarceration for a maximum
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18 117 Nev. 235, 243 (2001); *Brewery Arts Center v. State Bd. Of Examiners*, 108 Nev. 1050, 1054 (1992);
19 *Ex rel. Blake v. County Comm’rs*, 48 Nev. 299, 304 (1924); *State ex rel. Lawton v. Public Serv. Comm’n*,
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7 34.724(2)(c).

8 THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Demarene
9 Coleman's Petition for Writ of Mandamus is DENIED.

10 Dated this 2nd day of January, 2024

11 

12 The Honorable Judge Erika Ballou
13 District Court Judge **6D4 133 8C21 2048**
Erika Ballou
District Court Judge

14 Respectfully Submitted by:

15 /s/ Brooke D. Georguson
16 Brooke D. Georguson (16406)
17 Deputy Attorney General
18 Office of the Nevada Attorney General
19 100 North Carson Street
20 Carson City, Nevada 89701-4717
21 Telephone: (775) 684-1257
22 Facsimile: (775) 684-1108
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1 **CSERV**

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

5	
6 Demarene Coleman, Plaintiff(s)	CASE NO: A-23-879247-W
7 vs.	DEPT. NO. Department 24
8 Nevada State of, Defendant(s)	
9	

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Steven D. Grierson

District Court
Clark County, Nevada

Demarene Coleman,

Petitioner, Case No. A-23-879247-W

Vs

Dept No: XXIV

State of Nevada

Respondent

Notice of Appeal

Comes Now, Demarene Coleman, Petitioner
in proper person and hereby appeals
to the Nevada Supreme Court from
the Order/Minute Order issued on
the 2nd day of January, 2024. Thus
Notice of Appeal was handed to official
for mailing on the following date

Dated This 16th day of January 2024

D Coleman

Demarene Coleman # 1007335

P.O. Box 208

Indian Springs, NV 89070

RECEIVED

JAN 22 2024

CLERK OF THE COURT

Denise Marie Coleman # 1007335
P.O. Box 208
Indian Springs, NV 89070

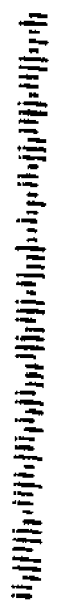
LAS VEGAS NV 8900



RECEIVED
JAN 22 2024
CLERK OF THE COURT

Steven D. Grierson
Clerk of the Court
200 Morris Avenue 3rd Floor
Las Vegas NV 89155-1160

00000000-00000000





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

10

DEMARENE COLEMAN,

11

Plaintiff(s),

12

vs.

13

STATE OF NEVADA,

14

Defendant(s),

15

Case No: A-23-879247-W

Dept No: XXIV

16

17

CASE APPEAL STATEMENT

18

1. Appellant(s): Demarene Coleman

19

2. Judge: Erika Ballou

20

3. Appellant(s): Demarene Coleman

21

Counsel:

22

Demarene Coleman #107335
P.O. Box 208
Indian Springs, NV 89070

23

24

25

4. Respondent (s): State of Nevada

26

Counsel:

27

Aaron D. Ford, Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101-1068

28

- 1
2 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
3
4 Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
5
6 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7
8 7. Appellant Represented by Appointed Counsel On Appeal: N/A
9
10 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
11 Appellant Filed Application to Proceed in Forma Pauperis: No
12 Date Application(s) filed: N/A
13
14 9. Date Commenced in District Court: October 9, 2023
15
16 10. Brief Description of the Nature of the Action: Civil Writ
17
18 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
19
20 11. Previous Appeal: No
21
22 Supreme Court Docket Number(s): N/A
23
24 12. Child Custody or Visitation: N/A
25
26 13. Possibility of Settlement: Unknown
27
28

Dated This 24 day of January 2024.

Steven D. Grierson, Clerk of the Court

/s/ Cierra Borum

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

cc: Demarene Coleman

DENIED.

Due to the aforementioned reasons, Petitioner Coleman s Petition for Writ of Mandamus is hereby DENIED. The State is to prepare the order and submit it to DC24Inbox@clarkcountycourts.us promptly.

CLERK'S NOTE: A copy of this Minute Order has been mailed to: Demarene Coleman #1007335 at P.O. BOX 208 Indian Springs, Nv 89070 /tm//12.21.23

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated February 6, 2024, 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 one volumes with pages numbered 1 through 41.

DEMARENE COLEMAN,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-23-879247-W

Dept. No: XXIV

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 9 day of February 2024.

Steven D. Grierson, Clerk of the Court



Cierra Borum, Deputy Clerk