

RENARD T. Polk #72439
L.C.C. P.O. Box 359
Lovehock, Nevada 89419

PROPER PERSON
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OCT 03 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT

In The Supreme Court of The State of
Nevada

* * * *

RENARD TRUMAN POLK
~ Movant ~

Case No. 50147
Docket No:

-VS-

The State of Nevada
~ Respondent ~

Return
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Motion for En Banc Reconsideration

Comes now the Movant, Renard T. Polk, in his proper person and hereby request this court to reconsider en banc the judgment entered on September 24, 2002.

This motion is made and based upon all papers, pleadings and documents on file herein. This motion is further based on all facts, allegations and orders pertinent to the disposition of said



Pg. 1

151 Pd Polk 07-21843
Respectfully Submitted
RENARD T. POLK #72439

Why reconsideration is warranted.

The purpose for reconsideration is to correct manifest error of fact or law. Harpro Corp v Zolnaki 779 F.2d 906.

The movant asserts that the error exists in the notion that the Nevada Supreme Court is denying the "petition" based on a statute even though the 9th Cir Court of Appeals ruled in Blair v.

Crawford 275 F.3d 1156. "the Nevada Supreme Courts power to issue [writs] stems from the Nevada Constitution and CANNOT be repelled by statute."

This holding does not mean just writs of habeas corpus but any pre-rogative writ vested in the supreme court by the state constitution. Estate of Almeida v. Sherman 610 A.2d 104.

Why the Writ should issue.

Because the Nevada Supreme Court is treating the movant's motion as a "petition" it should be duly noted that the only remedies available in the nature and relief sought by the movant is a Writ of Error or a Writ of Mandamus.

Since the facts and arguments asserted involved substantive and judicial errors which are corrected by a writ of error. Parker Bros Inc v. Jane Doe 68 F.2d 616; Hawker v. Hawker 118 P.2d 759; or a Writ of Mandamus challenging the constitutionality of governmental action or policy. Stockmeyer v. The Nevada Parole Board unpublished opinion

So it should be taken into account that all the facts and arguments contained in the motion deal separately and distinctly with the post-conviction's corrective process adequacy and independency to effectuate or obtain a waiver of the accused's constitutional rights as far as defects and fundamental fairness is concerned.

With that being said the motion not only challenges the judgment rendered on January 25, 2005 but the direct appeal judgment on August 25, 2003; the trial courts denial of the post conviction writ on September 14, 2004; the trial courts denial of the pre-trial writ on August 8, 2001 and the original jurisdiction writs in the Nevada Supreme Court on January 3, 2002 and April 26, 2007 as well.

All of which have culminated into friction before the Nevada Supreme Court.

Accordingly the following and additional questions are being presented to help aid the Nevada Supreme Court in determination of the "petition."

1.) Whether the Nevada Supreme Court's policy practice, custom or usage of refusing, failing or otherwise disallowing an accused's or interested party to a proceeding proper person documents on direct appeal when said party is represented by counsel to be filed is contrary repugnant to, or infringes upon or is otherwise procedurally adequate to protect or waive said party's fundamental

right and liberty interest to due process as well as access to the courts.

2.) Whether the Nevada Supreme Court is operating beyond the scope of its authority.

3.) Whether N.R.S. 34.810 is unconstitutionally overbroad because it empowers the Nevada Supreme Court to expand its appellate jurisdiction ousting the trial court of its original jurisdiction in derogation of an accused right to due process.

4.) Whether N.R.S. 34.810(b)(2) is unconstitutionally vague in as much as it employs the terms and phrases "could have been raised" or "direct appeal."

5.) Whether the trial court can limit its original jurisdiction to issue writs to questions of law.

6.) Whether the Nevada Supreme Court erred in determining that the "petitioner" has not substantially complied or met the requisite cause to overcome the procedural bar of N.R.S. 34.810(b)(2).

7.) Whether the Nevada Supreme Court erred in refusing to order an evidentiary hearing.

8.) Whether the procedural bar of N.R.S. 34.810(b)(2) is applicable to the instant.

Conclusion

Wherefore, the movant requests this court to reconsider its decision and issue a writ of error.

vacating or setting aside the judgment(s) entered either on January 25, 2005; August 25, 2003; September 11, 2004; August 8, 2001; January 3, 2002 or April 26, 2007 and address the petition(s) on the merits.

However if in the event the motion is being treated as a writ of Mandamus declare N.R.S. 34-810 (b)(2) void for reasons of over-breadth or vagueness and/or the procedural bar inapplicable to the instant case directing the trial court to rule on the post-conviction petition on the merits.

151. Rd Polk

REWARD T. RIK #72439

L.C.C P.O. Box 359

Dovehook, Nevada 89419

Dated this 1st day of Oct. 2007.

**SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

RENARD TRUMAN POLK,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 50147
District Court Case No. C166490

RECEIPT FOR DOCUMENTS

TO: Renard Truman Polk #72439
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

10/03/07 Filed Petition for Rehearing.
Motion for En Banc Reconsideration.

DATE: October 03, 2007

Janette M. Bloom, Clerk of Court

By: _____



Deputy Clerk