

FILED

DEC 31 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Angel
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW DEAN GOODNER,
A/K/A, JASON HILLIARD,
Appellant,

Supreme Court No: 51148

vs.

District Court No: C236726

THE STATE OF NEVADA,

Respondent. /

PROPER PERSON
RECEIVED/ENTERED

DEC 22 2008

MOTION TO COMPEL COUNSEL TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

COMES NOW, Matthew Dean Goodner, the Appellant, in propria persona, as countenanced in HAINES v. KERNER, 404 US 519, 92 S.Ct 594 (1972), (pleadings Filed by pro se litigants are to be held to less stringent standards than those Filed by practicing attorneys), and respectfully moves this Honorable Court for its ORDER, Compelling appellate counsel, Kenneth G. Frizzell, III, Esq. (509 S. 6th St., Las Vegas, NV 89010), to supply a complete copy of Appellant's entire case file for the above-referenced District Court/Supreme Court cases, including, but not limited to, products of discovery pursuant to NRS 174.235 NRS 174.245, inclusive; court transcripts; pleadings; orders; memos; correspondence; and any and all tangible papers that Appellant may require to to perfect a Post-Convict Writ of Habeas Corpus and his Appeal, pursuant to NRS 17.055.

FURTHER, Appellant moves this Honorable Court for an ORDER compelling Appellate counsel, Kenneth G. Frizzle, III, Esq., to communicate and corroborate with Appellant in perfecting his Appeal,

RECEIVED

DEC 22 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

08-32423

MATTHEW DEAN GOODNER, NDOC # 172003
% Ely State Prison
P.O. Box 1989
12000 N. Bothwick Rd.
Ely, NV 89301-1989

1 pursuant to NV Supreme Court Rule 154.

2 This MOTION is made and predicated upon all pleadings and papers
3 on File herein, as well as upon the AFFIDAVIT OF APPELLANT attached
4 hereto and made apart hereof by reference thereto.

5 RESPECTFULLY SUBMITTED, this 15th day of December, 2008, by:

6
7
8 
9 MATTHEW D. GOODNER, Appellant
10 In pro per
11

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

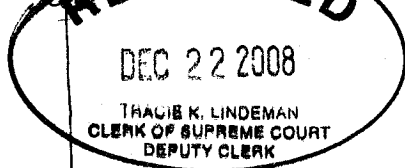
26 ///

27 ///

28 ///

29 ///

30 ///



AFFIDAVIT OF APPELLANT, MATTHEW DEAN GOODNER

1 STATE OF NEVADA)
2) ss :
3 COUNTY OF WHITE PINE)
4

5 I, Matthew Dean Goodner, do hereby depose and say, pursuant
6 to NRS 208.165, that the following assertions are true and cor-
7 rect, as to the best of my knowledge, information, and belief;

8 1) That I, Matthew Dean Goodner, am the Appellant in the
9 afore-captioned action;

10 2) That I am not trained in matters of the law;

11 3) That I have sent numerous requests to counsel in re-
12 gard to providing me with a complete copy of my case file,
13 records which I understand that I am entitled to pursuant
14 to NRS 7.055 and NRS 174.235 through NRS 174.245, in order
15 to perfect an anticipated Post-Conviction Writ of Habeas Corpus;

16 4) That I have attempted on numerous occasions to commu-
17 nicate with counsel in order to understand the nature and
18 status of my appeal, as well as to perfect said appeal;

19 5) That Attorney Frizzell, III, has failed to communicate,
20 pursuant to NV S Ct Rule 154, with me in regard to averments
21 numbered three (3) and four (4), above;

22 6) That I deem it necessary to have the requested documents
23 and communications in order to adequately and effectively prepare,
24 and/or assist in the preparation and perfection of my case for
25 Appeal and/or post conviction relief;

26 7) FURTHER, YOUR AFFIANT SAYETH NAUGHT.

27 EXECUTED and DATED, this 15th day of December, at the Ely
28 State Prison, Ely, White Pine County, Nevada, by:

29
30 
MATTHEW DEAN GOODNER, Appellant
In Pro Per

VERIFICATION

1 I, Matthew Dean Goodner, do hereby depose and say, under
2 the pains and penalties of perjury, as pursuant to NRS 208.165,
3 that the statements contained in the foregoing MOTION TO COMPEL,
4 and the Supporting AFFIDAVIT, are true and correct, as to the best
5 of my knowledge, information, and belief.

6 EXECUTED and DATED, this 15th day of December, 2008, at the
7 Ely State Prison, Ely, White Pine County, Nevada, by:

8
9
10 
11 MATTHEW DEAN GOODNER, Appellant
12 In Pro Per
13
14

15 CERTIFICATE OF SERVICE
16

17 I, Matthew Dean Goodner, do hereby CERTIFY that I have,
18 on the date last-here-written, placed a true and correct copy of the
19 foregoing MOTION TO COMPEL and supporting AFFIDAVIT in a sealed
20 envelope with sufficient postage affixed, and deposited the same
21 in the U.S. Postal Service Mail at the Ely State Prison, Ely,
22 Nevada, addressed to the following individuals:

23 Kenneth G. Frizzell, III, Esq.
24 509 S. 6th St.
25 Las Vegas, NV 89010.

26 EXECUTED and DATED, this 15th day of December, 2008, at the
27 Ely State Prison, Ely, White Pine County, Nevada, by:

28
29 
30 MATTHEW DEAN GOODNER, Appellant
In Pro Per