

Case No: 19EW0001913

Dept No: 1

REC'D & FILED

2015 MAR 18 PM 3:12

SUSAN HERRINGTON
Electronically Filed
BY: Tracie K. Lindeman
Mar 20 2015 04:18 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE First JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CARSON CITY

Michael P. Anselmo
~~The State of Nevada~~

Plaintiff

-vs-

CONNIE Bisbee Chairwoman
Susan Jackson, Tony Cardo
Adam Bidel Commissioners
Ascle Beach
Defendant

DESIGNATION OF RECORD
On APPEAL

COMES NOW, Michael P. Anselmo ^{Plaintiff} Defendant in proper persona, and
herein designates the record on appeal to be certified by the Clerk of the Court and transcribed to the
Clerk of the Nevada Supreme Court.

All Motions, Pleading, and Transcripts.

Dated this 12 day of March, 2015.

Michael P. Anselmo
Defendant Signature
Michael P. Anselmo
(Print Name) In Proper Persona

CERTIFICATE OF SERVICE BY MAIL


Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner\Defendant named herein and that on this 12 day of March - 2015 I deposited in the United States Mails in Carson City, Nevada a true a correct copy of the foregoing addressed to:

A handwritten signature in cursive script, appearing to read "Michael D. Chelmer", is written over a horizontal line.

PURSUANT TO N.R.S. 208.165, I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT. See N.R.S. 208.165.

Signed at NHCC
(Location)

3-12-15
(Date)


(Signature)

10999
(Inmate number)

REC'D & FILED

2015 MAR 19 PM 4:40

SUSAN MERRIWETHER
CLERK

BY [Signature]
DEPUTY

In The First Judicial District Court of the State of Nevada
In and for Carson City

MICHAEL P. ANSELMO,

Petitioner(s),

vs.

CONNIE BISBEE, CHAIRMAN; SUSAN
JACKSON, TONY CORDA, ADAM ENDEL,
COMMISSIONERS; NEVADA BOARD OF
PAROLE,

Respondent(s).

Case No.: 14 EW 00029 1B

Dept. No.: I

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
- MICHAEL P. ANSELMO
2. Identify the judge issuing the decision, judgment, or order appealed from:
- HONORABLE JAMES T. RUSSELL
3. Identify each appellant and the name and address of counsel for each appellant:
- MICHAEL P. ANSELMO #10999
P.O. BOX 7000
CARSON CITY, NV 89702-7000
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
- ADAM PAUL LAXALT
ATTORNEY GENERAL
DANIEL M. ROCHE
DEPUTY ATTORNEY GENERAL

100 NORTH CARSON STREET
CARSON CITY, NV 89701-4717

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

- NOT APPLICABLE

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

- APPELLANT WAS IN PROPER PERSON IN DISTRICT COURT

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

- APPELLANT IS IN PROPER PERSON ON APPEAL

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

- APPELLANT WAS GRANTED LEAVE TO PROCEED IN FORMA
PAUPERIS ON JANUARY 5, 2015

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

- WRIT OF HABEAS CORPUS; FILED DECEMBER 30, 2014

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

- HABEAS CORPUS; ORDER DISMISSING PETITION

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

- NOT APPLICABLE

12. Indicate whether this appeal involves child custody or visitation:

1 - NOT APPLICABLE

2 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

3 - NOT APPLICABLE.

4 Dated this 19th day of March, 2015.

5 SUSAN MERRIWETHER, Carson City Clerk
6 885 E. Musser St., #3031
7 Carson City, NV 89701

8 By , Deputy

Judge: RUSSELL, JUDGE JAMES
TODD

Case No. 14 EW 00029 1B

Ticket No.
CTN:

AMSELMO, MICHAEL P

-vs-

By:

BISBEE, CONNIE

DRSPND

By: ROCHE, DANIEL M
100 NORTH CARSON STREET
CARSON CITY, NV 89701Dob:
Lic:
CORDA, TONYSex:
Sid:
DRSPNDBy: ROCHE, DANIEL M
100 NORTH CARSON STREET
CARSON CITY, NV 89701Dob:
Lic:
ENDEL, ADAMSex:
Sid:
DRSPNDBy: ROCHE, DANIEL M
100 NORTH CARSON STREET
CARSON CITY, NV 89701Dob:
Lic:
JACKSON, SUSANSex:
Sid:
DRSPNDBy: ROCHE, DANIEL M
100 NORTH CARSON STREET
CARSON CITY, NV 89701Dob:
Lic:
NEVADA BOARD OF PAROLESex:
Sid:
DRSPNDBy: ROCHE, DANIEL M
100 NORTH CARSON STREET
CARSON CITY, NV 89701Dob:
Lic:
Accident:Plate#:
Make:
Year:
Type:
Venue:
Location:

AMSELMO, MICHAEL P

PLNTPET

Bond:
Type:Set:
Posted:

Charges:

Ct.	Offense Dt:	Cvr:
	Arrest Dt:	
	Comments:	

Ct.	Offense Dt:	Cvr:
	Arrest Dt:	
	Comments:	

Ct.	Offense Dt:	Cvr:
	Arrest Dt:	
	Comments:	

Ct.	Offense Dt:	Cvr:
	Arrest Dt:	
	Comments:	

Ct.	Offense Dt:	Cvr:
	Arrest Dt:	
	Comments:	

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	03/19/15	CASE APPEAL STATEMENT	1BJULIEH	0.00	0.00
2	03/18/15	DESIGNATION OF RECORD ON APPEAL	1BVANESSA	24.00	0.00
3	03/16/15	REPLY TO OPPOSITION TO MOTION TO DISMISS	1BVANESSA	0.00	0.00
4	03/09/15	CASE CLOSED	1BJHIGGINS	0.00	0.00
5	03/09/15	NOTICE OF ENTRY OF DECISION OR ORDER	1BJHIGGINS	0.00	0.00
6	03/06/15	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJHIGGINS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
7	03/06/15	ORDER DISMISSING PETITION	1BJHIGGINS	0.00	0.00
8	03/04/15	REQUEST FOR SUBMISSION	1BVANESSA	0.00	0.00
9	03/04/15	REPLY TO OPPOSITION TO MOTION TO DISMISS	1BVANESSA	0.00	0.00
10	02/25/15	MOTION IN OPPOSITION TO DISMISS	1BVANESSA	0.00	0.00
11	02/13/15	MOTION TO DISMISS	1BCCOOPER	0.00	0.00
12	01/08/15	NOTICE OF REPRESENTATION OF RESPONDENTS	1BCGRIBBLE	0.00	0.00
13	01/05/15	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
14	01/05/15	ORDER TO PROCEED IN PROPRIA ORDER DENYING REQUEST FOR ATTORNEY ORDER TO RESPOND	1BCCOOPER	0.00	0.00
15	01/02/15	ORDER TRANSFERRING CASE TO DEPARTMENT 1	1BJHIGGINS	0.00	0.00
16	12/30/14	AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED INFORMA PAUPERIS	1BCCOOPER	0.00	0.00
17	12/30/14	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	1BCCOOPER	0.00	0.00
18	12/30/14	WRIT OF HABEAS CORPUS	1BCCOOPER	0.00	0.00
Total:				24.00	0.00
Totals By: COST				24.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

ORIGINAL

REC'D & FILED

2015 MAR -6 PM 5: 33

SUSAN HERRIWETHER
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

MICHAEL P. ANSELMO,

Petitioner,

vs.

CONNIE BISBEE, Chairman;
SUSAN JACKSON, TONY CORDA,
ADAM ENDEL, Commissioners;
NEVADA BOARD OF PAROLE,

Respondents.

Case No. 14 EW 00029 1B

Dept. No. 1

ORDER DISMISSING PETITION

Petitioner Michael P. Anselmo's petition for writ of habeas corpus having been filed on December 30, 2014, and the Attorney General for the State of Nevada having filed a motion to dismiss the petition; now, therefore, the Court, having considered the petition, motion to dismiss, and all other documents on file herein, hereby dismisses the petition based on the following findings of fact and conclusions of law:

FINDINGS OF FACT and CONCLUSIONS OF LAW

Petitioner is in the custody of the Nevada Department of Corrections pursuant to judgments of conviction for first-degree murder and escape, the validity of which he does not dispute.

On December 14, 2005, the State of Nevada's Board of Pardons commuted Petitioner's sentence of life without parole for first-degree murder to a sentence of life with parole eligibility beginning after five years. Since that time, the Nevada State Board of Parole Commissioners ("Parole Board") has voted to deny him parole on four occasions. In his petition filed on December 30, 2014, Petitioner

1 claims that the most recent denial of parole violated his constitutional rights to due process and to be
2 free from cruel and unusual punishment and double jeopardy.

3 Petitioner does not challenge his underlying conviction or sentence or a related computation of
4 time, and therefore his petition is outside the scope of the post-conviction habeas corpus statutes.
5 NRS 34.720. Moreover, because he does not dispute the validity of the judgments for which he is
6 confined, he fails to allege that there is no legal cause for his imprisonment or restraint. *See*
7 NRS 34.360; NRS 34.480. Petitioner fails to set forth a cognizable claim for habeas relief because
8 parole is an act of grace of the State, and there is no cause of action permitted when parole has been
9 denied. *See* NRS 213.10705; *Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 7 (1979); *State,*
10 *ex rel. Bd. of Parole Comm'rs v. Morrow*, ___ Nev. ___, ___, 255 P.3d 224, 227-28 (2011);
11 *Niergarth v. Warden*, 105 Nev. 26, 28, 768 P.2d 882, 883 (1989); *Weakland v. Bd. of Parole Comm'rs*,
12 100 Nev. 218, 220, 687 P.2d 1158, 1160 (1984); *Severance v. Armstrong*, 96 Nev. 836, 620 P.2d 369
13 (1980).

14 To the extent that any of Petitioner's claims are cognizable in a petition for a writ of habeas
15 corpus, the Court finds that they are patently without merit.

16 **ORDER**

17 THEREFORE, IT IS HEREBY ORDERED that Michael P. Anselmo's petition for a writ of
18 habeas corpus is DISMISSED.

19 ORDERED this 6th day of March, 2015.

20
21 
22 DISTRICT JUDGE

23 SUBMITTED BY:

24 ADAM PAUL LAXALT
25 Attorney General
26 DANIEL M. ROCHE
27 Deputy Attorney General
28 100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1273
DRoche@ag.nv.gov

REC'D & FILED

2015 MAR -9 PM 1:06

SUSAN MERRIWETHER
CLERK

BY *[Signature]* DEPUTY

In The First Judicial District Court of the State of Nevada
In and for Carson City

MICHAEL P. ANSELMO,
Plaintiff

Case No.: 14 EW 00029 1B

Dept. No.: I

vs

CONNIE BISBEE, CHAIRMAN; SUSAN
JACKSON, TONY CORDA, ADAM ENDEL,
COMMISSIONERS; NEVADA BOARD OF
PAROLE,

**NOTICE OF ENTRY OF DECISION OR
ORDER**

Defendant.

PLEASE TAKE NOTICE that on the 6th day of March, 2015, the Court entered a decision or order in this matter, a true and correct copy of which is attached to this Notice.

You may appeal to the Supreme Court from the decision or order of this Court. If you wish to appeal, you must file a Notice of Appeal with the Clerk of this Court within 33 days after the date this Notice is mailed to you. This Notice was mailed on the 9th day of March, 2015.

DATED this 9th day of March, 2015.

SUSAN MERRIWETHER, Clerk

By *[Signature]*, Deputy

cc: Michael P. Anselmo
Connie Bisbee
Susan Jackson
Tony Corda
Adam Endel
Adam Paul Laxalt, Attorney General
Christopher Hicks, District Attorney

ORIGINAL

REC'D & FILED

2015 MAR -6 PM 5: 33

SUSAN MERRIWETHER
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

MICHAEL P. ANSELMO,

Petitioner,

vs.

CONNIE BISBEE, Chairman;
SUSAN JACKSON, TONY CORDA,
ADAM ENDEL, Commissioners;
NEVADA BOARD OF PAROLE,

Respondents.

Case No. 14 EW 00029 1B

Dept. No. 1

ORDER DISMISSING PETITION

Petitioner Michael P. Anselmo's petition for writ of habeas corpus having been filed on December 30, 2014, and the Attorney General for the State of Nevada having filed a motion to dismiss the petition; now, therefore, the Court, having considered the petition, motion to dismiss, and all other documents on file herein, hereby dismisses the petition based on the following findings of fact and conclusions of law:

FINDINGS OF FACT and CONCLUSIONS OF LAW

Petitioner is in the custody of the Nevada Department of Corrections pursuant to judgments of conviction for first-degree murder and escape, the validity of which he does not dispute.

On December 14, 2005, the State of Nevada's Board of Pardons commuted Petitioner's sentence of life without parole for first-degree murder to a sentence of life with parole eligibility beginning after five years. Since that time, the Nevada State Board of Parole Commissioners ("Parole Board") has voted to deny him parole on four occasions. In his petition filed on December 30, 2014, Petitioner

claims that the most recent denial of parole violated his constitutional rights to due process and to be free from cruel and unusual punishment and double jeopardy.

Petitioner does not challenge his underlying conviction or sentence or a related computation of time, and therefore his petition is outside the scope of the post-conviction habeas corpus statutes. NRS 34.720. Moreover, because he does not dispute the validity of the judgments for which he is confined, he fails to allege that there is no legal cause for his imprisonment or restraint. *See* NRS 34.360; NRS 34.480. Petitioner fails to set forth a cognizable claim for habeas relief because parole is an act of grace of the State, and there is no cause of action permitted when parole has been denied. *See* NRS 213.10705; *Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 7 (1979); *State, ex rel. Bd. of Parole Comm'rs v. Morrow*, ___ Nev. ___, ___, 255 P.3d 224, 227-28 (2011); *Niergarth v. Warden*, 105 Nev. 26, 28, 768 P.2d 882, 883 (1989); *Weakland v. Bd. of Parole Comm'rs*, 100 Nev. 218, 220, 687 P.2d 1158, 1160 (1984); *Severance v. Armstrong*, 96 Nev. 836, 620 P.2d 369 (1980).

To the extent that any of Petitioner's claims are cognizable in a petition for a writ of habeas corpus, the Court finds that they are patently without merit.

ORDER

THEREFORE, IT IS HEREBY ORDERED that Michael P. Anselmo's petition for a writ of habeas corpus is DISMISSED.

ORDERED this 6th day of March, 2015.

John R. Russell
DISTRICT JUDGE

SUBMITTED BY:

ADAM PAUL LAXALT
Attorney General
DANIEL M. ROCHE
Deputy Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1273
DRoche@ag.nv.gov