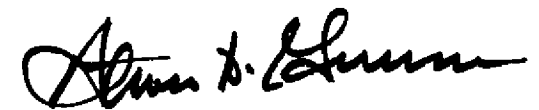


ATTACHMENT 3



CLERK OF THE COURT

1 NEOJ
2 GORDON SILVER
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12 Fax: (702) 369-2666
13 Attorney for Petitioner, KENNETH SCOTT COLEY
14 In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

DISTRICT COURT

CLARK COUNTY, NEVADA

10 KENNETH SCOTT COLEY aka KING COLEY,
11
12 Petitioner,

CASE NO. 96C137946
DEPT. XXV

13 vs.

14 NEVADA DEPARTMENT OF PUBLIC SAFETY,
15 DIVISION OF PAROLE AND PROBATION; DOES
16 I-X; and ROE ENTITIES I-X, inclusive,
17 Respondents.

NOTICE OF ENTRY OF ORDER

18 PLEASE TAKE NOTICE that an Order Granting Petition for Writ of Mandamus, was
19 entered in the above-entitled matter on the 2nd day of April, 2015, a copy of which is attached
20 hereto.

21 Dated this 3rd day of April, 2015.

GORDON SILVER



PAOLA M. ARMENI

Nevada Bar No. 8357

COLLEEN E. MCCARTY

Nevada Bar No. 13186

3960 Howard Hughes Pkwy., 9th Floor

Las Vegas, Nevada 89169

Attorneys for Petitioner Kenneth Scott Coley

In conjunction with Legal Aid Center of

Southern Nevada Pro Bono Project

CERTIFICATE OF SERVICE

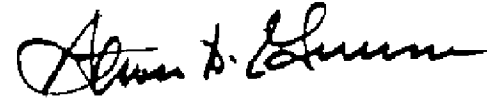
The undersigned, an employee of Gordon Silver, hereby certifies that on the 3 day of April, 2015, I caused a copy of the foregoing Notice of Entry of Order, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's

Odyssey E-File & Serve system addressed to:

Adam Honey
Attorney General's Office
555 E. Washington Avenue, #3900
Las Vegas, Nevada 89101
E-Mail: ahoney@ag.nv.gov



An employee of Gordon Silver



CLERK OF THE COURT

1 ORDG
2 GORDON SILVER
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7 Attorney for Petitioner, *KENNETH SCOTT COLEY*
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DISTRICT COURT

CLARK COUNTY, NEVADA

11 KENNETH SCOTT COLEY aka KING
12 COLEY,

Petitioner,

13 vs.

14 NEVADA DEPARTMENT OF PUBLIC
15 SAFETY, DIVISION OF PAROLE AND
16 PROBATION; DOES I-X; and ROE ENTITIES
I-X, inclusive,

17 Respondents.

CASE NO. 96C137946

CONSOLIDATED CASE NO.: 96C137870

DEPT. XXV

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

Date of Hearing: February 23, 2015
Time of Hearing: 9:00 a.m.

21 On February 23, 2015, the Court heard Petitioner Kenneth Scott Coley's ("Ken") Petition
22 for Writ of Mandamus (the "Petition"). Paola M. Armeni, Esq. and Colleen E. McCarty, Esq.
23 appeared on behalf of Ken; Adam D. Honey, Esq., of the Office of the Nevada Attorney General,
24 appeared on behalf of the Nevada Department of Public Safety, Division of Parole and Probation
25 (the "Division"). The Court considered the papers filed on behalf of the parties, including the
26 Petition and the State's Opposition; and the oral argument of counsel, and good cause appearing
27 therefore,

28 ...

1 IT IS HEREBY ORDERED that the Petition for Writ of Mandamus is hereby
2 GRANTED.

3 THE COURT HEREBY FINDS as follows:

4 1. The issue presented by Ken's Petition is whether the Division acted arbitrarily and
5 capriciously in its consideration of Ken's request for a change in discharge status from
6 dishonorable¹ to honorable pursuant to the 2005 Statutes of Nevada Chapter 476, Section 16 at
7 pages 2360 – 2361 (hereinafter "Section 16") and in accordance with its regulations set forth in
8 NAC 213.720 – NAC 213.790.

9 2. The plain language of Section 16 is ambiguous. However, there would need to be
10 legislative action in order for Section 16 to have been codified or further applicable. Therefore,
11 the Court finds that the statute is not still in effect and thus the Division did not fail to discharge
12 a duty required by the statute.

13 3. However, on the basis of the uncontested facts of this case, the Division continued
14 to engage in the discretionary function of continuing this program forward beyond the date of
15 July 1, 2008 in which the statute required them to do so. Further, the Division effectuated the
16 continuation of the program pursuant to the Nevada Administrative Code (NAC 213.720 – NAC
17 213.790), which remains in effect today. And in doing so, they have acted in an arbitrary and
18 capricious manner. Namely, the Division continued to process requests for a change in discharge
19 status pursuant to Section 16 and the corresponding administrative code after July 1, 2008, and in
20 fact, granted at least two requests for a change in discharge status subsequent to Ken's
21 application, and forwarded recommendations to the respective sentencing courts.

22 4. Despite continuing to process applications for a change in discharge status, the
23 Division acted arbitrarily and capriciously in denying Ken's 2014 application on the basis of
24 disqualifying factors not found in Section 16 and NAC 213.720 – NAC 213.790.

25 5. Ken has no other plain, speedy and adequate remedy at law.

26 6. The Court encourages the Division to continue to afford persons the opportunity
27

28 ¹ The District Court cases at issue are Case Nos. C137870 and C137946.

1 to request a change in discharge status from dishonorable to honorable on public policy grounds
2 as a means to recoup monies.

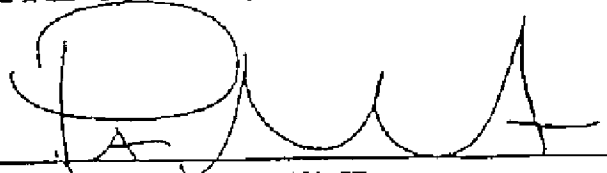
3 7. As the Court finds that there is no factual dispute, an evidentiary hearing is not
4 warranted.

5 IT IS HEREBY ORDERED that a writ of mandamus is awarded commanding and
6 directing the respondent Division: (1) to allow Ken to proceed forward with his original
7 application for a change in discharge status from dishonorable to honorable; (2) to afford Ken the
8 opportunity to avail himself of and complete the program, namely to satisfy his outstanding
9 financial obligation to the Division or to demonstrate a good faith effort toward making the
10 required payments; and (3) if, Ken does satisfy his financial obligation or demonstrates a good
11 faith effort to do so, the Division will make a recommendation to the Court to change his
12 discharge from dishonorable to honorable.

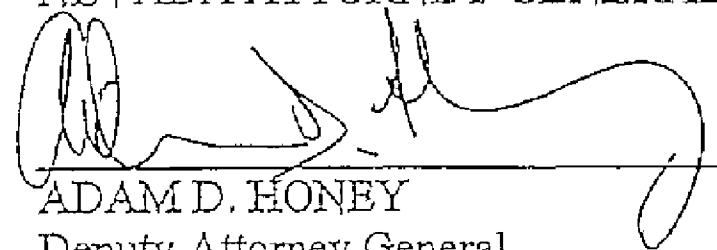
13 IT IS SO ORDERED this 1st day of ~~March~~ ^{APRIL}, 2015.

14
15 
16 DISTRICT COURT JUDGE

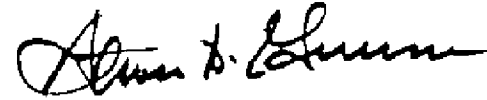
17 Prepared and submitted by:
18 GORDON SILVER

19 
20 PAOLA M. ARMENI
21 Nevada Bar No. 8357
22 COLLEEN E. MCCARTY
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28 *In conjunction with Legal Aid Center of*
Southern Nevada Pro Bono Project

Approved as to form and content by:
NEVADA ATTORNEY GENERAL

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30 ADAM D. HONEY
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32 Nevada Bar. No. 9588
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34 Las Vegas, Nevada 89101
35 *Attorneys for Respondents*

ATTACHMENT 2



CLERK OF THE COURT

1 ORDG
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7 Attorney for Petitioner, *KENNETH SCOTT COLEY*
In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

DISTRICT COURT

CLARK COUNTY, NEVADA

11 KENNETH SCOTT COLEY aka KING
12 COLEY,

Petitioner,

13 vs.

14 NEVADA DEPARTMENT OF PUBLIC
15 SAFETY, DIVISION OF PAROLE AND
16 PROBATION; DOES I-X; and ROE ENTITIES
I-X, inclusive,

17 Respondents.

CASE NO. 96C137946

CONSOLIDATED CASE NO.: 96C137870

DEPT. XXV

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

Date of Hearing: February 23, 2015
Time of Hearing: 9:00 a.m.

21 On February 23, 2015, the Court heard Petitioner Kenneth Scott Coley's ("Ken") Petition
22 for Writ of Mandamus (the "Petition"). Paola M. Armeni, Esq. and Colleen E. McCarty, Esq.
23 appeared on behalf of Ken; Adam D. Honey, Esq., of the Office of the Nevada Attorney General,
24 appeared on behalf of the Nevada Department of Public Safety, Division of Parole and Probation
25 (the "Division"). The Court considered the papers filed on behalf of the parties, including the
26 Petition and the State's Opposition; and the oral argument of counsel, and good cause appearing
27 therefore,

28 ...

1 IT IS HEREBY ORDERED that the Petition for Writ of Mandamus is hereby
2 GRANTED.

3 THE COURT HEREBY FINDS as follows:

4 1. The issue presented by Ken's Petition is whether the Division acted arbitrarily and
5 capriciously in its consideration of Ken's request for a change in discharge status from
6 dishonorable¹ to honorable pursuant to the 2005 Statutes of Nevada Chapter 476, Section 16 at
7 pages 2360 – 2361 (hereinafter "Section 16") and in accordance with its regulations set forth in
8 NAC 213.720 – NAC 213.790.

9 2. The plain language of Section 16 is ambiguous. However, there would need to be
10 legislative action in order for Section 16 to have been codified or further applicable. Therefore,
11 the Court finds that the statute is not still in effect and thus the Division did not fail to discharge
12 a duty required by the statute.

13 3. However, on the basis of the uncontested facts of this case, the Division continued
14 to engage in the discretionary function of continuing this program forward beyond the date of
15 July 1, 2008 in which the statute required them to do so. Further, the Division effectuated the
16 continuation of the program pursuant to the Nevada Administrative Code (NAC 213.720 – NAC
17 213.790), which remains in effect today. And in doing so, they have acted in an arbitrary and
18 capricious manner. Namely, the Division continued to process requests for a change in discharge
19 status pursuant to Section 16 and the corresponding administrative code after July 1, 2008, and in
20 fact, granted at least two requests for a change in discharge status subsequent to Ken's
21 application, and forwarded recommendations to the respective sentencing courts.

22 4. Despite continuing to process applications for a change in discharge status, the
23 Division acted arbitrarily and capriciously in denying Ken's 2014 application on the basis of
24 disqualifying factors not found in Section 16 and NAC 213.720 – NAC 213.790.

25 5. Ken has no other plain, speedy and adequate remedy at law.

26 6. The Court encourages the Division to continue to afford persons the opportunity
27

28 ¹ The District Court cases at issue are Case Nos. C137870 and C137946.

1 to request a change in discharge status from dishonorable to honorable on public policy grounds
2 as a means to recoup monies.

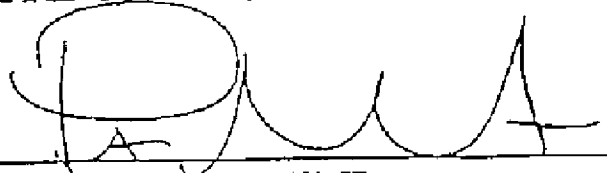
3 7. As the Court finds that there is no factual dispute, an evidentiary hearing is not
4 warranted.

5 IT IS HEREBY ORDERED that a writ of mandamus is awarded commanding and
6 directing the respondent Division: (1) to allow Ken to proceed forward with his original
7 application for a change in discharge status from dishonorable to honorable; (2) to afford Ken the
8 opportunity to avail himself of and complete the program, namely to satisfy his outstanding
9 financial obligation to the Division or to demonstrate a good faith effort toward making the
10 required payments; and (3) if, Ken does satisfy his financial obligation or demonstrates a good
11 faith effort to do so, the Division will make a recommendation to the Court to change his
12 discharge from dishonorable to honorable.

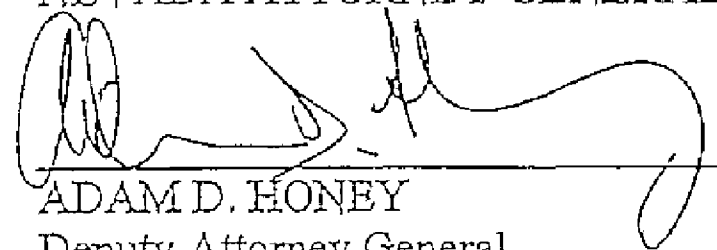
13 IT IS SO ORDERED this 1st day of ~~March~~ ^{APRIL}, 2015.

14
15 
16 DISTRICT COURT JUDGE

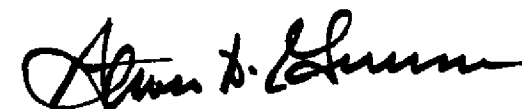
17 Prepared and submitted by:
18 GORDON SILVER

19 
20 PAOLA M. ARMENI
21 Nevada Bar No. 8357
22 COLLEEN E. MCCARTY
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27 *Attorneys for Petitioner Kenneth Scott Coley*
28 *In conjunction with Legal Aid Center of*
Southern Nevada Pro Bono Project

Approved as to form and content by:
NEVADA ATTORNEY GENERAL

29 
30 ADAM D. HONEY
31 Deputy Attorney General
32 Nevada Bar. No. 9588
33 555 E. Washington Avenue, #3900
34 Las Vegas, Nevada 89101
35 *Attorneys for Respondents*

ATTACHMENT 1



CLERK OF THE COURT

1 **PMAN**
GORDON SILVER
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COLLEEN E. MCCARTY
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Fax: (702) 369-2666
7 *Attorney for Petitioner, KENNETH SCOTT COLEY*
In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 KENNETH SCOTT COLEY aka KING
COLEY,

CASE NO. 96C137946
DEPT. XXV

12
13 Petitioner,

14 vs.

15 NEVADA DEPARTMENT OF PUBLIC
SAFETY, DIVISION OF PAROLE AND
PROBATION; DOES I-X; and ROE ENTITIES
16 I-X, inclusive,

17 Respondents.

18
19 **PETITION FOR WRIT OF MANDAMUS**

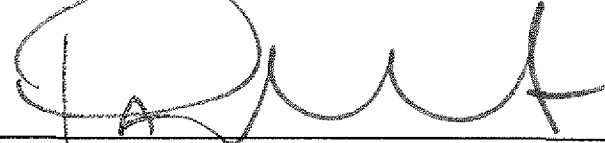
20 Petitioner Kenneth Scott Coley ("Ken"), by and through his counsel, the law firm of
21 Gordon Silver in conjunction with the Legal Aid Of Southern Nevada Pro Bono Project, hereby
22 requests this Court enter a Writ of Mandamus to compel, the Nevada Department of Public
23 Safety, Division of Parole and Probation (the "Division"), to comply with Section 16 of Chapter
24 476 of the 2005 Statutes of Nevada, and pursuant to its terms, grant Ken's application for request
25 of change of discharge from dishonorable to honorable.

26 This Petition is supported by the concurrently filed Memorandum of Points and
27 Authorities; and the Declaration of Paola M. Armeni, Esq. (the "Armeni Declaration"), attached
28 hereto as **Exhibit 1**.

1 Ken further requests that this Court entertain oral argument for consideration of this
2 Petition.

3 Dated this 5th day of February, 2015.

4 GORDON SILVER

5 

6 PAOLA M. ARMENI

Nevada Bar No. 8357

7 COLLEEN E. MCCARTY

Nevada Bar No. 13186

8 3960 Howard Hughes Pkwy., 9th Floor

Las Vegas, Nevada 89169

9 Tel: (702) 796-5555

Attorneys for Petitioner Kenneth Scott Coley

In conjunction with Legal Aid Center of

Southern Nevada Pro Bono Project

11 **NOTICE OF HEARING**

12
13 YOU, AND EACH OF YOU, will please take notice that the undersigned will bring the
14 above and foregoing Petition for Writ of Mandamus on for hearing before this Court on the
15 23 day of February, 2015 at the hour of 9:00A .m. of said day, or as
16 soon thereafter as counsel can be heard in Department No. XXV.

17 Dated this 5th day of February, 2015.

18 GORDON SILVER

19 

20 PAOLA M. ARMENI

Nevada Bar No. 8357

21 COLLEEN E. MCCARTY

Nevada Bar No. 13186

22 3960 Howard Hughes Pkwy., 9th Floor

Las Vegas, Nevada 89169

23 Tel: (702) 796-5555

Attorneys for Petitioner Kenneth Scott Coley

In conjunction with Legal Aid Center of

Southern Nevada Pro Bono Project

1 him an honorable discharge without further delay.

2 II. STATEMENT OF FACTS

3 On May 5, 2014, Ken applied to the Division to request his dishonorable discharge be
4 changed to an honorable discharge, pursuant to Section 16. (See S.B. 282, 2005 Leg., 73rd Sess.
5 (NV 2005), a true and correct copy of which is attached hereto as **Exhibit 1-A**). Section 16
6 affords persons who were dishonorably discharged from probation the opportunity to obtain an
7 honorable discharge when certain criteria are met. (See *id.* at § 16).

8 Section 16 provides in pertinent part:

9 1. Notwithstanding any other provision of law, except as otherwise
10 provided in subsection 2, a person who was dishonorably discharged from
11 probation or parole before the effective date of this section, until July 1, 2008,
12 may apply to the Division of Parole and Probation of the Department of Public
13 Safety, in accordance with the regulations adopted by the Division pursuant to the
provisions of this section, to request that his dishonorable discharge from
probation or parole be changed to an honorable discharge from probation or
parole.

14 2. A person who was dishonorably discharged from probation or parole
15 may not apply to change his discharge to an honorable discharge pursuant to this
section if his dishonorable discharge was based, in whole or in part, upon:

16 (a) The fact that he committed a new crime, other than a violation
17 of a traffic law for which he was issued a citation, during the period of his
probation or parole;

18 (b) The fact that his whereabouts were unknown at the time of his
19 discharge from probation or parole; or

20 (c) Any incident involving his commission of a violent act or an
21 act that threatened public safety during the period of his probation or
parole.

22 (*See id.*).

23 Section 16, subsection 3 required the Division to adopt regulations establishing
24 guidelines and procedures used to carry out the provisions of Section 16. (See *id.* at § 16(3)). As
25 set forth in subsection 3, the procedures were to include a mechanism for applicants who have
26 outstanding financial obligations, in the form of unpaid restitution and/or supervision fees, to
27 make a good faith effort to satisfy those obligations. (See *id.*). In 2006, the Division adopted the
28

1 required regulations, later codified in Nevada Administrative Code (“NAC”) 213.720 through
2 213.790. (See NAC 213.720 – NAC 213.790, a true and correct copy of which is attached hereto
3 as **Exhibit 1-B**).

4 In 2008, in compliance with Section 16, subsection 5, the Division submitted a Report to
5 the Nevada Legislature detailing (a) the number of persons who applied for a change of
6 discharge status pursuant to the provisions of Section 16; (b) the number of applications granted
7 and denied and the reasons for the denials; (c) the amount of restitution and fees paid as a result
8 of Section 16; and (d) recommendations and conclusions concerning the desirability of extending
9 the application of the provisions of Section 16 beyond the July 1, 2008 expiration date. (See
10 Report from Bernard Curtis, Chief, Dept. of Public Safety to Lorne Malkiewich, Dir., Legislative
11 Counsel Bureau (Dec. 8, 2008), a true and correct copy of which is attached hereto as **Exhibit 1-**
12 **C**). In the Report, the Division concluded, “This regulation, with the possibility of receiving
13 additional restitution due to victims or fees due to the Division, **should be continued.**” (See Ex.
14 1-C at p. 2) (emphasis added). Indeed, in practice, the Division continues to consider requests
15 for a change of status pursuant to Section 16 and provides written instructions¹ to potential
16 applicants reflecting its language.

17 Although Ken clearly fits the criteria for a change in discharge status pursuant to Section
18 16, in that his whereabouts were known at the time of his discharge from probation in 1996, he
19 did not commit a new crime, and was not involved in the commission of a violent act or an act
20 that threatened public safety, the Division wrongfully determined Ken did not qualify for
21 consideration. (See Ltr. from Cherie Konvicka, Management Analyst III to Kenneth Coley (June
22 17, 2014), a true and correct copy of which is attached hereto as **Exhibit 1-D**). Specifically, the
23

24 ¹ Upon request, P&P provided Ken with written instructions detailing the application process pursuant to Section 16.
25 Ken relied on and therefore followed those instructions. However, following the denial of his application, and
26 Ken’s inquiry to the Division, the Division revised its written instructions, without notice to Ken, to newly reflect its
27 opinion that only those persons who received a dishonorable discharge due to unpaid restitution or supervision fees
28 qualify for a change in status. See “Applying to have your Dishonorable Discharge change to an Honorable
Discharge providing fiscal obligation are met” and “Change of Dishonorable Discharge to Honorable Discharge
Pursuant to SB 282, codified as NAC 213.720,” true and correct copies of which are attached hereto as **Exhibits 1-F**
and **Exhibit 1-G** respectively.

1 Division noted that Ken's dishonorable discharge was the result of a failure to successfully
2 complete community service. (*See id.*)

3 As the Division's stated reasons for rejecting Ken's request did not comport with Section
4 16, Ken inquired regarding the apparent misapplication of law. (*See Exhibit 2*). In response, the
5 Division explained that Section 16 is "history" of S.B. 282, as opposed to applicable law. (*See*
6 Email from Cherie Konvicka to Paola Armeni (July 17, 2014), a true and correct copy of which
7 is attached hereto as **Exhibit 1-E**). This is quite an interesting position since the three
8 enumerated disqualifying factors in which the Division rely are only found in Section 16. So it
9 appears the Division is simply picking and choosing when Section 16 is law and when it is
10 simply "history."

11 Further, despite the clear mandate in Section 16 to disqualify only certain categories of
12 persons, it is the Division's opinion that only offenders who were dishonorably discharged for
13 unpaid supervision fees and restitution qualify for a change of status. (*See id.*) The Division
14 however is mistaken on both fronts.

15 Indeed, although Section 16 of S.B. 282 was not added to the Nevada Revised Statutes, it
16 was passed and included in the 2005 Statutes of Nevada, Chapter 476, Section 16, making it law.
17 (*See* 2005 Nev. Stat., ch. 476, § 16 at 2360 - 2361). NRS 220.170(3) states that while the
18 Nevada Revised Statutes may be cited as prima facie evidence of the law, it "may be rebutted by
19 proof that the statutes cited differ from the official Statutes of Nevada." NRS 220.170(3); *see*
20 *also Halverson v. Miller*, 124 Nev. 484, 487, 186 P.3d 893, 896 (2008). Thus, Section 16 is law,
21 as it was enacted in the official Statutes of Nevada, and the Division must follow its mandates.

22 Moreover, although Section 16, subsection 3, requires applicants who failed to make full
23 restitution or satisfy supervision fees, to make a good faith effort to do so, it in no way limits a
24 change in discharge status to only those persons with unpaid restitution and fees. (*See* S.B. 282 §
25 16). The express limitations of Section 16 are clearly delineated in subsection 2, and none of
26 those limitations applies to Ken. (*See id.*). Further, although Ken owes a financial obligation to
27 the Division of \$450.00 in supervision fees and a \$25.00 administrative assessment fee, the
28 Division did not consider Ken's proposed payment plan to satisfy the obligation. (*See* Kenneth

1 Coley's Application for Change of Discharge Per SB 282, a true and correct copy of which is
2 attached hereto as **Exhibit (1-H)**). Clearly, in perpetuating its incorrect opinion that only those
3 who were dishonorably discharged as a result of unpaid restitution and fees qualify for a change
4 in discharge status, the Division has not adopted the appropriate criteria for applicants pursuant
5 to Section 16. Instead, the Division is exercising discretion where it has none, to the detriment of
6 Ken, and potentially others. Accordingly, the Division should be ordered to lawfully apply
7 Section 16 and grant Ken's request for a change in discharge status immediately.

8 **III. LEGAL ARGUMENT**

9 **A. Propriety of Writ Relief**

10 This Court has original jurisdiction to issue writs of mandamus, prohibition and
11 certiorari. Nev. Const. Art. 6 § 4; NRS 34.160; *State of Nevada v. Eighth Judicial Dist Court*,
12 116 Nev. 127, 133, 994 P.2d 692, 696 (2000). Even in the context of writ proceedings, the Court
13 reviews questions of statutory interpretation de novo. *City of Las Vegas v. Eighth Judicial Dist.*
14 *Court ex rel Cnty. of Clark*, 124 Nev. 540, 544, 188 P.3d 55, 58 (2008).

15 "A writ of mandamus is available to compel the performance of an act which the law
16 requires as a duty resulting from an office, trust, or station, or to control an arbitrary or
17 capricious exercise of discretion." *Brewery Arts Ctr. v. State Bd. of Examiners*, 108 Nev. 1050,
18 1053, 843 P.2d 369, 372 (1992). Extraordinary relief is generally not available if there is a
19 "plain, speedy and adequate remedy in the ordinary course of law." *Id.* (citing NRS 34.170).

20 Ken submits that mandamus relief is warranted in this case because the Division has the
21 express authority to grant a change in discharge status pursuant to Section 16. However, the
22 Division has failed to properly exercise that authority in accordance with its statutory mandate.
23 Further, Ken has no other plain, speedy or adequate remedy at law to compel the Division to
24 change his probation discharge status from dishonorable to honorable.

25 **B. Ken Meets the Criteria for a Change in Discharge Status from Dishonorable to** 26 **Honorable Pursuant to Section 16.**

27 In enacting S.B. 282, Section 16, the Nevada Legislature intended to provide certain
28 persons who were dishonorably discharged from probation, like Ken, the opportunity to obtain a

1 change in discharge status. (*See* S.B. 282 § 16). Moreover, Lawmakers set forth specific criteria
2 to exclude those persons they did not think worthy of a change, to the inclusion of all others.
3 (*See id.* at sub. 2). As discussed previously, Section 16, subsection 2 provides:

4 2. A person who was dishonorably discharged from probation or parole
5 may not apply to change his discharge to an honorable discharge pursuant to this
6 section if his dishonorable discharge was based, in whole or in part, upon:

7 (a) The fact that he committed a new crime, other than a violation of a
8 traffic law for which he was issued a citation, during the period of his probation or
9 parole;

10 (b) The fact that his whereabouts were unknown at the time of his
11 discharge from probation or parole; or

12 (c) Any incident involving his commission of a violent act or an act that
13 threatened public safety during the period of his probation or parole.

14 (*See id.*).

15 Here however, in clear contravention of the Legislature's intent, the Division
16 acknowledges it excludes all persons from consideration for a change in discharge status, unless
17 the sole reason for the dishonorable discharge was a failure to pay restitution and/or supervision
18 fees. (*See* Ex. 6). Further, when that criterion is met, the Division does not only apply the three
19 delineated exclusions set forth in subsection 2² but rather includes additional subjective
20 exclusions. This policy and practice is not only wrong-headed, it is a violation of law. Pursuant
21 to Section 16, Ken qualifies as a person eligible for a change in discharge status from
22 dishonorable to honorable. Moreover, he should be provided the opportunity to satisfy his
23 outstanding financial obligation to the Division, pursuant to Section 16(3). Accordingly, the
24 Division must be forced to comply with Section 16 and grant Ken's change in discharge status
25 from dishonorable to honorable immediately.

26 ...

27 ...

28 ...

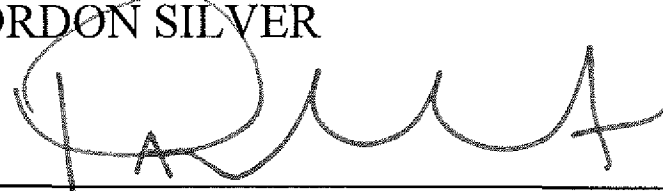
² (*See id.*).

1 IV. CONCLUSION

2 Based on the foregoing, Petitioner Ken respectfully requests that this Court grant his
3 Petition. He should be permitted, if not encouraged, to continue to better himself through a
4 change in discharge status and ultimately the sealing of his criminal records. Accordingly, the
5 Court should issue a writ of mandamus compelling the Division to follow the law and grant
6 Ken's request for a change of discharge status from dishonorable to honorable.

7 Dated this 5th day of February, 2015.

8 GORDON SILVER

9 
10 PAOLA M. ARMENI
11 Nevada Bar No. 8357
12 COLLEEN E. MCCARTY
13 Nevada Bar No. 13186
14 3960 Howard Hughes Pkwy., 9th Floor
15 Las Vegas, Nevada 89169
16 Tel: (702) 796-5555
17 *Attorneys for Petitioner Kenneth Scott Coley*
18 *In conjunction with Legal Aid Center of*
19 *Southern Nevada Pro Bono Project*

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CERTIFICATE OF SERVICE

The undersigned, an employee of Gordon Silver, hereby certifies that on the 5th day of February, 2015, she served a copy of the **Petition for Writ of Mandamus**, by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope addressed to:

Michael D. Jensen
Attorney General's Office
555 Wright Way
Carson City, Nevada 89701

Natalie Wood, Chief
Nevada Department of Public Safety
Parole and Probation
215 East Bonanza Road
Las Vegas, Nevada 89101


An employee of Gordon Silver

EXHIBIT 1

EXHIBIT 1

1 **DECL**
2 GORDON SILVER
3 PAOLA M. ARMENI
4 Nevada Bar No. 8357
5 Email: parmeni@gordonsilver.com
6 COLLEEN E. MCCARTY
7 Nevada Bar No. 13186
8 Email: cmccarty@gordonsilver.com
9 3960 Howard Hughes Pkwy., 9th Floor
10 Las Vegas, Nevada 89169
11 Tel: (702) 796-5555
12 Fax: (702) 369-2666
13 *Attorneys for Petitioner Eric Mathews*
14 *In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 ERIC MATHEWS, 11 12 Petitioner, 13 14 vs. 15 NEVADA DIVISION OF PAROLE; DOES I-X; 16 and ROE ENTITIES I-X, inclusive, 17 Respondents.	18 CASE NO. 19 DEPT.
---	-------------------------

17 **DECLARATION OF PAOLA M. ARMENI IN SUPPORT OF**
18 **PETITION FOR WRIT OF MANDAMUS**

19 The undersigned, Paola M. Armeni, hereby declares under penalty of perjury that the
20 following assertions are true:

21 1. I am an attorney licensed to practice law in the State of Nevada and a partner in
22 the law firm of Gordon Silver, attorneys for Petitioner Eric Mathews ("Eric").

23 2. That I have read the foregoing Petition, know the contents thereof, and that the
24 same is true of my own knowledge, except as to those matters therein stated on information and
25 belief, and as to those matters I believe to be true.

26 3. Further, I am competent to testify to the matters asserted herein, of which I have
27 personal knowledge, except as to those matters stated upon information and belief. As to those
28 matters stated upon information and belief, I believe them to be true.

1 4. I make this Affidavit in support of the Petition for Writ of Mandamus.

2 5. In July of 2013, I was asked by Legal Aid of Southern Nevada if I would assist
3 Eric Mathews with sealing his records.

4 6. In the process of sealing his records, I was advised by the Clark County District
5 Attorney's office that Eric could not seal his records because he had been dishonorably
6 discharged from probation in 1996.

7 7. In response, I began to do legal research and was able to find SB 282, Section 16,
8 which allowed me to petition the Division of Parole and Probation ("Division") for a change in
9 Discharge from dishonorable to honorable.

10 8. In the beginning of 2014, I inquired of the Division, the process by which a
11 dishonorable discharge may be changed to an honorable discharge. In response, I received
12 instructions entitled "Applying to have your Dishonorable Discharge changed to an Honorable
13 Discharge providing fiscal obligations are met.," a true and correct copy of which is attached
14 hereto as **Exhibit 1-F**. I explained that I did not believe my client owed any money but the
15 Division responded that I still needed to fill out the application provided.

16 9. In accordance with the instructions, on April 23, 2014, I submitted a letter to the
17 Division along with an Application for Change of Discharge Per SB 282 on Eric's behalf,
18 requesting his discharge status be changed.

19 10. In response to my letter, on May 8, 2014, I received a phone call from Lieutenant
20 Robert Geraldo from the Division, asking me if I could provide the Division the courtesy of
21 waiting a couple weeks to work through my request. I obliged the request.

22 11. I also spoke to Lieutenant Geraldo on June 4, 2014 to get an update on the
23 matter. Thereafter, I forwarded him additional paperwork on June 5th and June 6th to assist the
24 Division in facilitating my request.

25 12. Thereafter, on or about June 12, 2014, I received an email from Lieutenant
26 Geraldo advising me that he assigned one of his employees to this project. Her name was Cherie
27 Konvicka. He advised that she would develop a procedure and a working manual to address
28 these issues and he had made the new administration aware of the issue as well. He closed the e-

1 mail by stating that either Cherie or he would be in touch next week with more information
2 regarding Eric Matthews.

3 13. On June 18, 2014, I received a response letter from the Division denying my
4 request on behalf of Eric, a true and correct copy of which is attached hereto as **Exhibit 1-D**.

5 14. Upon receipt of the letter, I noticed that the Division had provided their own
6 category, different than what was included in S.B. 282, Section 16, to exclude Eric from the
7 change in discharge. This prompted me to go to the Division's website which now contained
8 revised instructions regarding the application process for a change of discharge status, drafted
9 during my on-going discussions with the Division. A true and correct copy of the revised
10 instructions, entitled "Change of Dishonorable Discharge to Honorable Discharge Pursuant to SB
11 282, codified as NAC 213.720," is attached hereto as **Exhibit 1-G**. The instructions were
12 revised without notice to me or Eric.

13 15. After receipt of the above-referenced letter and noticing the change in the website,
14 I engaged the Division, specifically Ms. Konvicka, in discussions regarding its stated
15 interpretation of S.B. 282, Section 16, the legal basis upon which a person may receive a change
16 in discharge status, a true and correct copy of which is attached hereto as **Exhibit 1-A**. Section
17 16 is codified in NAC 213.720 – NAC 213.790, a true and correct copy of which is attached
18 hereto as **Exhibit 1-B**. Ms. Konvicka even addressed my concerns with her supervisor. He
19 refused to change the Division's position.

20 16. The Division informed me during the above-referenced discussions, that it held
21 the opinion that only those persons who owed restitution and/or supervision fees qualified for
22 reconsideration. I indicated my disagreement with the Division's interpretation of the law and
23 argued that Eric qualified pursuant to Section 16 (1) and (2). Attached hereto as **Exhibit 1-H** are
24 true and correct copies of the relevant minutes from the criminal case at issue.

25 17. Management Analyst Cherie Konvicka further memorialized the Division's
26 position in an email to me on July 17, 2014, a true and correct copy of which is attached hereto
27 as **Exhibit 1-E**.

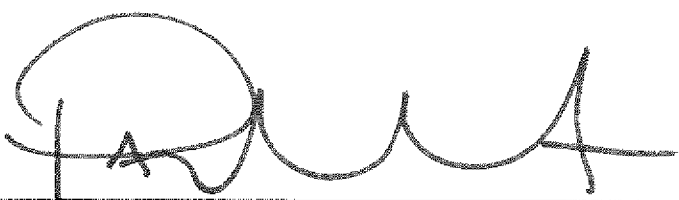
28 18. After engaging in communications with Ms. Konvicka, I had several

1 communications with Senior Deputy Attorney General, Michael Jensen. He spoke to the
2 Division; however, the Division still maintained their position; thus prompting this Writ.

3 19. Attached hereto as **Exhibit 1-C** is a true and correct copy of a Report to the
4 Legislature pursuant to S.B. 282, Section 16, regarding the response to the change in regulation
5 that provided for reconsideration of parole and probation discharge status. It recommends the
6 Division continue to offer reconsideration.

7 I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045)¹,
8 that the foregoing is true and correct.

9 Executed this 5th day of February, 2015.

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11 PAOLA M. ARMENI

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26 ¹ **NRS 53.045** Use of unsworn declaration in lieu of affidavit or other sworn declaration. Any matter whose
27 existence or truth may be established by an affidavit or other sworn declaration may be established with the same
28 effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated,
in substantially the following form:

Case No.	Case Name	Case Type	Case Status	Case Date
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EXHIBIT 1-A

EXHIBIT 1-A

Senate Bill No. 282-Senator Washington

CHAPTER.....

AN ACT relating to convicted persons; prohibiting a person other than a state or local government or agency thereof from operating or maintaining a facility for transitional living for released offenders without licensure by the State Board of Health; providing that each alcohol and drug abuse program operated by such a facility must be certified by the Health Division of the Department of Human Resources; providing that such facilities are facilities for the dependent; revising the definition of "halfway house for recovering alcohol and drug abusers"; requiring the Board to adopt standards and regulations governing the licensure and operation of such facilities; authorizing the Board to impose fees for the issuance and renewal of a license to operate such a facility; providing that the fact that a facility for transitional living for released offenders is located near real property which is the subject of a sale, lease or rental is not material to the transaction and is not required to be disclosed by the seller, lessor or landlord; revising the provisions governing the sealing of records of convictions pertaining to certain crimes; making various changes concerning the restoration of civil rights of certain persons; allowing certain persons who have been dishonorably discharged from probation or parole to apply, for a limited period, to the Division of Parole and Probation of the Department of Public Safety to request that their dishonorable discharge be changed to an honorable discharge; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *"Facility for transitional living for released offenders" means a residence that provides housing and a living environment for persons who have been released from prison and who require assistance with reintegration into the community, other than such a residence that is operated or maintained by a state or local government or an agency thereof. The term does not include a halfway house for recovering alcohol and drug abusers or a facility for the treatment of abuse of alcohol or drugs.*

2. *As used in this section, "person who has been released from prison" means:*

(a) A parolee.

(b) *A person who is participating in:*

(1) *A judicial program pursuant to NRS 209.4886 or 213.625; or*

(2) *A correctional program pursuant to NRS 209.4888 or 213.632.*

(c) *A person who is supervised by the Division of Parole and Probation of the Department of Public Safety through residential confinement pursuant to NRS 213.371 to 213.410, inclusive.*

(d) *A person who has been released from prison by expiration of his term of sentence.*

Sec. 3. *Each alcohol and drug abuse program operated or provided by a facility for transitional living for released offenders must be certified by the Health Division in accordance with the requirements set forth in chapter 458 of NRS and any regulations adopted pursuant thereto. As used in this section, "alcohol and drug abuse program" has the meaning ascribed to it in NRS 458.010.*

Sec. 4. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.0045 is hereby amended to read as follows:

449.0045 "Facility for the dependent" includes a facility for the treatment of abuse of alcohol or drugs, halfway house for recovering alcohol and drug abusers, *facility for transitional living for released offenders*, facility for the care of adults during the day or residential facility for groups.

Sec. 6. NRS 449.008 is hereby amended to read as follows:

449.008 "Halfway house for recovering alcohol and drug abusers" means a residence that provides housing and a living environment for *recovering* alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse. *The term does not include a facility for transitional living for released offenders.*

Sec. 7. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may

provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive laser surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive ~~and~~ *and sections 2 and 3 of this act.*

2. The Board shall adopt separate regulations governing the licensing and operation of:

- (a) Facilities for the care of adults during the day; and
 - (b) Residential facilities for groups,
- ↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

- (a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.
- (b) The licensure of facilities for refractive laser surgery which take into consideration the unique factors of operating such a facility.
- (c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

- (a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The regulations must prohibit a residential facility for groups from claiming that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Contain toilet facilities and a sleeping area or bedroom; and

(2) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's

need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

9. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

Sec. 8. NRS 449.050 is hereby amended to read as follows:

449.050 1. Except as otherwise provided in subsection 2, each application for a license must be accompanied by such fee as

may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.

3. *The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.*

4. *If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.*

Sec. 9. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection ~~{5.}~~ 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

↪ is not material to the transaction.

2. In any sale, ~~lessor~~ lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.400, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. *In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.*

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~{or}~~ 2 or 3 that is not material to the transaction or

of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

~~{4.}~~ 5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~{or}~~ 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

~~{5.}~~ 6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by a governmental entity.

7. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act.*

Sec. 10. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of his probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated his fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court, may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:

(a) Is free from the terms and conditions of his probation.

(b) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(c) Four years after the date of his honorable discharge from probation, is restored to the right to hold office.

(d) Six years after the date of his honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.

(e) If he meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to his conviction.

(f) Must be informed of the provisions of this section and NRS 179.245 in his probation papers.

(g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

(h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.

(i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

→ A person described in this subsection may petition ~~the court in which the person was convicted~~ *a court of competent jurisdiction* for an order granting the restoration of his civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon his honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That he has received an honorable discharge from probation;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from probation;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (c) of subsection 3; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of his honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of his honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring his civil rights,
→ as proof that he has been restored to the civil rights set forth in subsection 3.

Sec. 11. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after ~~10~~ 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after ~~3~~ 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice's court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

→ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose

records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.210.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or mentally ill person pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 12. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his term of sentence, by pardon or by parole, the Director:

(a) May furnish him with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give him notice of the provisions of chapter 179C of NRS and NRS 202.360;

(c) Shall require him to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give him notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) May provide him with clothing suitable for reentering society;

(f) May provide him with the cost of transportation to his place of residence anywhere within the continental United States, or to the place of his conviction; ~~and~~

(g) *May, but is not required to, release him to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and*

(h) Shall require him to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a), (e), (f) and ~~((g))~~ (h) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act.*

Sec. 13. NRS 213.155 is hereby amended to read as follows:

213.155 1. Except as otherwise provided in subsection 2, a person who receives an honorable discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his honorable discharge from parole, is restored to the right to hold office.

(c) Six years after the date of his honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

→ A person described in this subsection may petition ~~{the court in which the person was convicted}~~ *a court of competent jurisdiction* for an order granting the restoration of his civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That he has received an honorable discharge from parole;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from parole;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his civil rights,

→ as proof that he has been restored to the civil rights set forth in subsection 1.

6. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 14. NRS 213.157 is hereby amended to read as follows:

213.157 1. Except as otherwise provided in subsection 2, a person convicted of a felony in the State of Nevada who has served his sentence and has been released from prison:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his release from prison, is restored to the right to hold office.

(c) Six years after the date of his release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition ~~{the court in which the person was convicted}~~ **a court of competent jurisdiction** for an order granting the restoration of his civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his release from prison, a person so released must be given an official document which provides:

(a) That he has been released from prison;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his release from prison;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been released from prison in this State or elsewhere may present:

(a) Official documentation of his release from prison, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his civil rights,
→ as proof that he has been restored to the civil rights set forth in subsection 1.

Sec. 15. Notwithstanding the provisions of sections 1 to 9, inclusive, and 12 of this act, a person is not required to possess a license issued by the State Board of Health to operate or maintain a facility for transitional living for released offenders in this State before January 1, 2006, unless the Board establishes, by regulation, an earlier date for compliance with the amendatory provisions of sections 1 to 9, inclusive, and 12 of this act.

Sec. 16. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this section, until July 1, 2008, may apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to the provisions of this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

(a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;

(b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

(a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;

(b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and

(c) Must be given an official document which:

(1) Provides that he has received an honorable discharge from probation or parole; and

(2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2009, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

(a) The number of persons who applied for a change of discharge pursuant to this section;

(b) The number of applications that were granted or denied and the general reasons for denial of the applications;

(c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;

(d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and

(e) Any other information deemed appropriate by the Division.

Sec. 17. 1. This section and sections 10, 11 and 13 to 16, inclusive, of this act become effective upon passage and approval.

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2. Sections 1 to 9, inclusive, and 12 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

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EXHIBIT 1-B

EXHIBIT 1-B

CHANGE OF DISHONORABLE DISCHARGE TO HONORABLE DISCHARGE

NAC 213.720 Definitions. (§ 16 of ch. 476, Stats. 2005) As used in NAC 213.720 to 213.790, inclusive, unless the context otherwise requires, the words and terms defined in NAC 213.730, 213.740 and 213.750 have the meanings ascribed to them in those sections.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.730 "Applicant" defined. (§ 16 of ch. 476, Stats. 2005) "Applicant" means a person who submits an application to the Division to change his or her dishonorable discharge from probation or parole to an honorable discharge from probation or parole in accordance with the provisions of section 16 of chapter 476, Statutes of Nevada 2005.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.740 "Chief" defined. (§ 16 of ch. 476, Stats. 2005) "Chief" means the Chief Parole and Probation Officer.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.750 "Division" defined. (§ 16 of ch. 476, Stats. 2005) "Division" means the Division of Parole and Probation of the Department of Public Safety.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.760 Submission of application and supporting documentation and information; action upon receipt. (§ 16 of ch. 476, Stats. 2005)

1. To request that his or her dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole, an applicant must submit to the office of the Chief:

- (a) A completed application, in the form prescribed by the Division;
- (b) Documentation of his or her current income; and
- (c) Any other information requested by the Division.

2. Upon receipt of an application and the supporting documentation and information from an applicant, the Chief shall obtain from the Division the discharge summary pertaining to the applicant and a summary of restitution and fees for supervision paid by the applicant. If necessary, the Chief may request from the Division an audit of the payments made by the applicant.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.770 Action upon determination of eligibility of applicant; monthly payments by applicant. (§ 16 of ch. 476, Stats. 2005)

1. If the Division determines that an applicant is not eligible to change his or her dishonorable discharge to an honorable discharge, the Chief shall:

(a) Notify the applicant, in writing, that the application has been denied and state the reasons for the denial; and

(b) Retain copies of the application, the discharge summary, the summary of restitution and fees paid by the applicant, the written notification provided to the applicant pursuant to paragraph (a) and any other supporting documentation or information received from the applicant or considered by the Division.

2. If the Division determines that an applicant is eligible to change his or her dishonorable discharge to an honorable discharge, the Chief shall establish a schedule of payments for the applicant to make over the period for repayment established pursuant to subsection 4. Except as otherwise provided in subsection 3, an applicant must be required to pay a minimum monthly payment in an amount that is equal to four times the hourly wage earned by the applicant.

3. If the Division determines that the applicant has demonstrated an economic hardship, the applicant must be required to pay a minimum monthly payment in the amount of \$20.

4. The period for repayment for an applicant must be:

- (a) One year; or
- (b) A period equal to one-half of the time that the applicant was under the supervision of the Division,

→ whichever is longer.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.780 Grant or denial of application. (§ 16 of ch. 476, Stats. 2005)

1. If, at the end of the period for repayment established by the Division pursuant to NAC 213.770, the Division determines that the applicant has made an effort in good faith and has made satisfactory progress towards making the required payments, the Division will submit its recommendation that the application should be granted to the court or the State Board of Parole Commissioners, whichever is applicable. Upon notification from the court or the State Board of Parole Commissioners that an application has been granted, the Division will:

- (a) Notify the applicant, in writing, that the application has been granted;
- (b) Forward to the applicant from the court or the State Board of Parole Commissioners, whichever is applicable, the official document which:
 - (1) Provides that he or she has received an honorable discharge from probation or parole; and
 - (2) States, as applicable, the dates on which his or her civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him or her;
- (c) Forward a copy of the official document to the Central Repository for Nevada Records of Criminal History; and
- (d) Retain a copy of the official document.

2. If, at the end of the period for repayment established by the Division pursuant to NAC 213.770, the Division determines that the applicant has not made an effort in good faith and has not made satisfactory progress towards making the required payments, the Division will:

- (a) Deny the application of the applicant; and
- (b) Notify the applicant that the application has been denied.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.790 Availability of information and forms. (§ 16 of ch. 476, Stats. 2005) The Division will make available at its offices, on its website and by mail:

1. A written explanation of the provisions of section 16 of chapter 476, Statutes of Nevada 2005, and NAC 213.720 to 213.790, inclusive; and

2. The form for an application.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

EXHIBIT 1-C

EXHIBIT 1-C

Jim Gibbons
Governor

Jearld L. Hafen
Director

Bernard W. Curtis
Chief



OFFICE OF THE CHIEF

1445 Old Hot Springs Rd.
Suite 104
Carson City, NV 89706

312
2008
Parole

Division of Parole and Probation

December 8, 2008

Mr. Lorne Malkiewich, Director
Legislative Council Bureau
401 S. Carson Street
Carson City, NV 89701

Director Malkiewich;

Pursuant to Senate Bill 282, Section 16, subsection 5 of the 73rd Session of the Nevada Legislature (attached), the Division of Parole and Probation respectfully submits the following report on the response to this change in the regulation.

A. The number of persons who applied for a change of discharge pursuant to this section:

Sixteen individuals either applied or inquired about the process between June 17, 2005, when the bill was enacted and July 1, 2008.

B. The number of applications that were granted or denied and the general reasons for denial of the applications:

Three applications were granted and the Dishonorable Discharges were changed to Honorable by the courts,

Six applications were denied. The reason for the denials were the Dishonorable Discharges resulted from factors *in addition to* non-payment of Restitution and/or Supervision fees, which were not addressed in the regulation change,

Six individuals inquired but did not complete the application,

One individual inquired but had already received an Honorable Discharge.

C. The estimated amount of restitution and fees for supervision paid as a result of the enactment of this section:

\$150,10 in Restitution and fees were collected and billing errors were corrected as a result of the enactment of this section.

- D. Any recommendations and conclusions concerning desirability of extending the application of the provisions of this section:

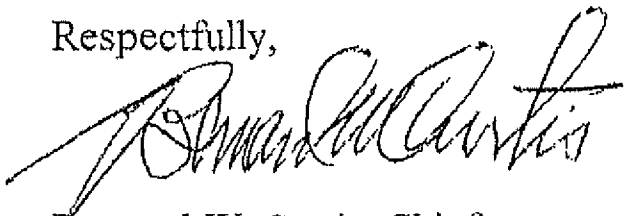
The Division's participation in the research and preparation of necessary court paperwork has been sporadic and non-problematic. This regulation, with the possibility of receiving additional restitution due to victims or fees due to the Division, should be continued.

- E. Any other information deemed appropriate by the Division:

None.

If you have any questions or would like additional information, please contact me at (775) 684-2605.

Respectfully,

A handwritten signature in cursive script, appearing to read "Bernard W. Curtis".

Bernard W. Curtis, Chief
Department of Public Safety,
Division of Parole and Probation

Senate Bill No. 282—Senator Washington

CHAPTER.....

AN ACT relating to convicted persons; prohibiting a person other than a state or local government or agency thereof from operating or maintaining a facility for transitional living for released offenders without licensure by the State Board of Health; providing that each alcohol and drug abuse program operated by such a facility must be certified by the Health Division of the Department of Human Resources; providing that such facilities are facilities for the dependent; revising the definition of "halfway house for recovering alcohol and drug abusers"; requiring the Board to adopt standards and regulations governing the licensure and operation of such facilities; authorizing the Board to impose fees for the issuance and renewal of a license to operate such a facility; providing that the fact that a facility for transitional living for released offenders is located near real property which is the subject of a sale, lease or rental is not material to the transaction and is not required to be disclosed by the seller, lessor or landlord; revising the provisions governing the sealing of records of convictions pertaining to certain crimes; making various changes concerning the restoration of civil rights of certain persons; allowing certain persons who have been dishonorably discharged from probation or parole to apply, for a limited period, to the Division of Parole and Probation of the Department of Public Safety to request that their dishonorable discharge be changed to an honorable discharge; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *"Facility for transitional living for released offenders" means a residence that provides housing and a living environment for persons who have been released from prison and who require assistance with reintegration into the community, other than such a residence that is operated or maintained by a state or local government or an agency thereof. The term does not include a halfway house for recovering alcohol and drug abusers or a facility for the treatment of abuse of alcohol or drugs.*

2. *As used in this section, "person who has been released from prison" means:*

(a) A parolee.

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(b) A person who is participating in:

(1) A judicial program pursuant to NRS 209.4886 or 213.625; or

(2) A correctional program pursuant to NRS 209.4888 or 213.632.

(c) A person who is supervised by the Division of Parole and

Probation of the Department of Public Safety through residential confinement pursuant to NRS 213.371 to 213.410, inclusive.

(d) A person who has been released from prison by expiration of his term of sentence.

Sec. 3. *Each alcohol and drug abuse program operated or provided by a facility for transitional living for released offenders must be certified by the Health Division in accordance with the requirements set forth in chapter 458 of NRS and any regulations adopted pursuant thereto. As used in this section, "alcohol and drug abuse program" has the meaning ascribed to it in NRS 458.010.*

Sec. 4. NRS 449.001 is hereby amended to read as follows:
449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.0045 is hereby amended to read as follows:
449.0045 "Facility for the dependent" includes a facility for the treatment of abuse of alcohol or drugs, halfway house for recovering alcohol and drug abusers, *facility for transitional living for released offenders*, facility for the care of adults during the day or residential facility for groups.

Sec. 6. NRS 449.008 is hereby amended to read as follows:
449.008 "Halfway house for recovering alcohol and drug abusers" means a residence that provides housing and a living environment for *recovering* alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse. *The term does not include a facility for transitional living for released offenders.*

Sec. 7. NRS 449.037 is hereby amended to read as follows:
449.037 1. The Board shall adopt:
(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, and for programs of hospice care.
(b) Regulations governing the licensing of such facilities and programs.
(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may

- 3 -

provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive laser surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive [.] *and sections 2 and 3 of this act.*

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

— which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive laser surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

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(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the

licensing and operation of residential facilities for groups which provide assisted living services. The regulations must prohibit a residential facility for groups from claiming that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Contain toilet facilities and a sleeping area or bedroom; and

(2) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's
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need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

9. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

Sec. 8. NRS 449.050 is hereby amended to read as follows:

449.050 1. Except as otherwise provided in subsection 2, each application for a license must be accompanied by such fee as
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may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.

3. The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.

4. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

Sec. 9. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection [5,] 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound,

mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property, ___ is not material to the transaction.

2. In any sale, [lessor] *lease* or rental of real property, the fact that a sex offender, as defined in NRS 179D.400, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. *In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.*

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1 , [or] 2 or 3 that is not material to the transaction or

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of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

[4.] 5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1 , [or] 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

[5.] 6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by a governmental entity.

7. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act.*

Sec. 10. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of his probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated his fitness for honorable discharge but because of economic hardship, verified by a parole and probation

officer, has been unable to make restitution as ordered by the court,
__ may be granted an honorable discharge from probation by order
of the court.

2. Any amount of restitution remaining unpaid constitutes a
civil liability arising upon the date of discharge.

3. Except as otherwise provided in subsection 4, a person who
has been honorably discharged from probation:

(a) Is free from the terms and conditions of his probation.

(b) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(c) Four years after the date of his honorable discharge from
probation, is restored to the right to hold office.

(d) Six years after the date of his honorable discharge from
probation, is restored to the right to serve as a juror in a criminal
action.

(e) If he meets the requirements of NRS 179.245, may apply to
the court for the sealing of records relating to his conviction.

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(f) Must be informed of the provisions of this section and NRS
179.245 in his probation papers.

(g) Is exempt from the requirements of chapter 179C of NRS,
but is not exempt from the requirements of chapter 179D of NRS.

(h) Shall disclose the conviction to a gaming establishment and
to the State and its agencies, departments, boards, commissions and
political subdivisions, if required in an application for employment,
license or other permit. As used in this paragraph, "establishment"
has the meaning ascribed to it in NRS 463.0148.

(i) Except as otherwise provided in paragraph (h), need not
disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil
rights set forth in subsection 3 are not restored to a person honorably
discharged from probation if the person has previously been
convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if
committed as of the date of his honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence
that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that
resulted in substantial bodily harm to the victim and that would
constitute a category B felony if committed as of the date of his
honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the
person has been convicted arose out of the same act, transaction or
occurrence as another felony, in which case the convictions for
those felonies shall be deemed to constitute a single conviction for
the purposes of this paragraph.

__ A person described in this subsection may petition [the court in
which the person was convicted] *a court of competent jurisdiction*
for an order granting the restoration of his civil rights as set forth in

subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon his honorable discharge from probation, the person so discharged must be given an official document which provides:

- (a) That he has received an honorable discharge from probation;
- (b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from probation;

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(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (c) of subsection 3; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of his honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

- (a) Official documentation of his honorable discharge from probation, if it contains the provisions set forth in subsection 6; or
- (b) A court order restoring his civil rights,

— as proof that he has been restored to the civil rights set forth in subsection 3.

Sec. 11. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

- (a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (c) A category E felony after [10] 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

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(f) Any other misdemeanor after [3] 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice's court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

— The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose

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records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.210.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or mentally ill person pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 12. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his term of sentence, by pardon or by parole, the Director:

- (a) May furnish him with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;
- (b) Shall give him notice of the provisions of chapter 179C of NRS and NRS 202.360;
- (c) Shall require him to sign an acknowledgment of the notice required in paragraph (b);
- (d) Shall give him notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;
- (e) May provide him with clothing suitable for reentering society;
- (f) May provide him with the cost of transportation to his place of residence anywhere within the continental United States, or to the place of his conviction; [and]
- (g) *May, but is not required to, release him to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and*
- (h) Shall require him to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a), (e), (f) and [(g)] (h) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. *As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in section 2 of this act.*

Sec. 13. NRS 213.155 is hereby amended to read as follows:

213.155 1. Except as otherwise provided in subsection 2, a person who receives an honorable discharge from parole pursuant to NRS 213.154:

- (a) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
 - (b) Four years after the date of his honorable discharge from parole, is restored to the right to hold office.
 - (c) Six years after the date of his honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.
2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

- (a) Of a category A felony.
- (b) Of an offense that would constitute a category A felony if committed as of the date of his honorable discharge from parole.

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- (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
- (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would

constitute a category B felony if committed as of the date of his honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

— A person described in this subsection may petition [the court in which the person was convicted] *a court of competent jurisdiction* for an order granting the restoration of his civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That he has received an honorable discharge from parole;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from parole;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his civil rights,

— as proof that he has been restored to the civil rights set forth in subsection 1.

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6. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 14. NRS 213.157 is hereby amended to read as follows:

213.157 1. Except as otherwise provided in subsection 2, a person convicted of a felony in the State of Nevada who has served his sentence and has been released from prison:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his release from prison, is restored to the right to hold office.

(c) Six years after the date of his release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

— A person described in this subsection may petition [the court in which the person was convicted] *a court of competent jurisdiction* for an order granting the restoration of his civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his release from prison, a person so released must be given an official document which provides:

(a) That he has been released from prison;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his release from prison;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and

— 15 —

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been released from prison in this State or elsewhere may present:

- (a) Official documentation of his release from prison, if it contains the provisions set forth in subsection 3; or
- (b) A court order restoring his civil rights,
_ as proof that he has been restored to the civil rights set forth in subsection 1.

Sec. 15. Notwithstanding the provisions of sections 1 to 9, inclusive, and 12 of this act, a person is not required to possess a license issued by the State Board of Health to operate or maintain a facility for transitional living for released offenders in this State before January 1, 2006, unless the Board establishes, by regulation, an earlier date for compliance with the amendatory provisions of sections 1 to 9, inclusive, and 12 of this act.

Sec. 16. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this section, until July 1, 2008, may apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to the provisions of this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

- (a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;
- (b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

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(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

- (a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;

(b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and

(c) Must be given an official document which:

(1) Provides that he has received an honorable discharge from probation or parole; and

(2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2009, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

(a) The number of persons who applied for a change of discharge pursuant to this section;

(b) The number of applications that were granted or denied and the general reasons for denial of the applications;

(c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;

(d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and

(e) Any other information deemed appropriate by the Division.

Sec. 17. 1. This section and sections 10, 11 and 13 to 16, inclusive, of this act become effective upon passage and approval.

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2. Sections 1 to 9, inclusive, and 12 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

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EXHIBIT 1-D

EXHIBIT 1-D

Brian Sandoval
Governor



James M. Wright
Director

Natalie Wood
Chief

DIVISION OF PAROLE AND PROBATION

OFFICE OF THE CHIEF

1445 Old Hot Springs Road, Suite 104
Carson City, NV 89706
(775) 684-2653 (775) 684-2697

June 17, 2014

STACEY CONCEPCION
GORDON AND SILVER, ATTORNEYS AT LAW
3960 HOWARD HUGHES PARKWAY
NINTH FLOOR
LAS VEGAS NV 89169

Re: Kenneth Coley, Change of Dishonorable Discharge to Honorable Discharge in
CC# C137946, C125907, C137870

Dear Ms. Concepcion:

The Division has received your request to change Kenneth Coley's dishonorable discharge to an honorable discharge pursuant to SB 282, codified as NAC 213.720 through NAC 213.790 inclusive. Based on the Nevada Administrative Regulations, he does not qualify for consideration. An audit of the supervision file in C137946 and C137870 confirms the following disqualifying factor:

- ☐ He committed a new crime, other than a violation of a traffic law for which you were issued a citation during your period of probation or parole.
- ☐ His whereabouts were unknown at the time of your discharge from probation or parole.
- ☐ His committed an incident involving commission of a violent act or an act that threatened public safety during your period of probation or parole.
- ☒ He received a Dishonorable Discharges in both cases due to in part to failure to complete community service and must petition the Court or Parole Board for relief on this particular issue.

Mr. Coley also owes \$450.00 in supervision fees and a \$25.00 administrative assessment fee. Please contact the undersigned at the above referenced phone number if you have any questions. He did receive an Honorable Discharge in C125907.

Sincerely,

Cherie Konvicka

Cherie Konvicka, Management Analyst III
Nevada Parole and Probation
Department of Public Safety

Administrative Services • Capitol Police • Criminal Justice Assistance • Emergency Management • Homeland Security
Emergency Response Commission • State Fire Marshal • Investigations • Highway Patrol • Office of Traffic Safety • Parole and Probation
Records and Technology • Board of Parole Commissioners • Training • Office of Professional Responsibility

EXHIBIT 1-E

EXHIBIT 1-E

Colleen E. McCarty

From: Paola M. Armeni
Sent: Thursday, July 17, 2014 9:57 AM
To: Stacey M. Concepcion
Subject: FW: Eric Mathews/Kenneth Coley
Attachments: SB282.pdf

From: Cherie Konvicka [mailto:ckonvicka@dps.state.nv.us]
Sent: Thursday, July 17, 2014 8:26 AM
To: Paola M. Armeni
Subject: RE: Eric Mathews/Kenneth Coley

Hi Paola: I went to the law library yesterday to do research and also read through a notebook in my office which has all the documentation from SB 282. It appears that the bill was first introduced and written to be included in NRS as a statute. Somewhere along the line, it was instead decided to pursue the process to change a dishonorable discharge to an honorable discharge to an Administrative Regulation. I am not sure why that change was made. Nevertheless, although the process started out as NRS it was amended and instead created as an NAC. The information that you pulled up is the "history" of the initial bill. The standards were not added to the NRS.

I have also attached the file stamped Regulation as it was submitted to the Legislative Counsel Bureau for inclusion in the NAC. The legislative note states specifically that the process is only for offenders who received a Dishonorable Discharge due to unpaid restitution and/or supervision fees.

The NAC stated below provides instances in which an offender would be disqualified from pursuing a change in their discharge. For example, if an offender was given a Dishonorable Discharge, and the reason stated was that he was an absconder, he is not eligible for consideration even if he does pay his outstanding fees. In cases where the offender did not complete community service, or their drug program, the Division does not believe these offenders qualify as the regulations were created only in reference to unpaid supervision fees and restitution.

My thought is that in cases where the offender was given a Dish Discharge for failure to complete a condition, they can petition the Court, and the Court can order an alternate penalty, for example, they pay a \$1,000 fine in lieu. The attorney may have to get creative, but I would think that the Courts would be open to alternative. Please let me know if you have any other questions.

Cherie Konvicka (702) 684-2653

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

(a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;

(b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

EXHIBIT 1-F

EXHIBIT 1-F

Applying to have your Dishonorable Discharge changed to an Honorable Discharge providing fiscal obligations are met.

NRS 213.157 has been amended by the Nevada Legislature to allow the opportunity for individuals who received a Dishonorable Discharge from supervision to apply to have it changed to an Honorable Discharge if certain criteria are met.

This application is based on the fiscal responsibilities of the individual to either the State, the Victim or in some cases, both.

The regulation itself states that if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

A person is not eligible for this consideration if the Dishonorable Discharge was based in whole or in part, upon:

- (a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole.
- (b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or
- (c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

If you wish to take advantage of this regulation please complete the attached application and forward it to the:
Office of the Chief of Parole and Probation
1445 Old Hot Springs Road
Carson City, Nevada 89706

Your application will be reviewed and a payment schedule will be developed for your individual circumstance. The Division of Parole and Probation will contact you regarding the payment schedule and when payments will be expected.

If you have any questions regarding the regulation or your individual application, please contact Catherine Gilbert at (775) 684-2606

EXHIBIT 1-G

EXHIBIT 1-G

**CHANGE OF DISHONORABLE DISCHARGE TO HONORABLE DISCHARGE
PURSUANT SB 282, codified as NAC 213.720**

Nevada Administrative Regulations (NAC 213.720) gives an individual who receives a Dishonorable Discharge from supervision for non-payment of supervision fees and/or restitution the opportunity to satisfy their obligations "after the fact", so that they can instead receive an Honorable Discharge. A person is not eligible for consideration if their Dishonorable Discharge was based in whole or part upon:

- a) The fact that he/she committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;
- b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole;
- c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

This process is only applicable for applicants who received a Dishonorable Discharge due to unpaid restitution or supervision fees. If an applicant received a Dishonorable Discharge due to unpaid court fines, failed drug tests, community service not completed, or any other unmet conditions, they must pursue remedy through the appropriate court or Parole Board.

APPLICANT INSTRUCTIONS

- 1. Complete and submit application.
- 2. Provide proof of current income. This can be a paycheck stub or tax return.

Mail documents to:

The Division of Parole and Probation
1445 Hot Springs Road #104
Carson City, NV 89706
Attention: Cherie Konvicka, MA III

PROCESS

After receiving application

- 1. The Division will review the Discharge Summary and supervision file to determine if applicant is eligible for consideration under the regulations.
- 2. If necessary, the Division will request an audit of payments made for restitution and supervision fees.

After determination of eligibility

1. If the Division determines the applicant is not eligible for consideration, a letter will be sent notifying the applicant that the application has been denied and the reason(s) why. The application, provided documentation and information used to make the determination of non-eligibility will be maintained by the Division for five years. There is no process to dispute the finding of non-eligibility.
2. If the Division determines the applicant is eligible for consideration, a hard file will be created and a schedule of payments will be determined and provided to the applicant. The period of repayment for the applicant must be one year, or a period equal to one-half of the time that the applicant was under the supervision of the Division, whichever is longer. If the Division determines that the applicant has demonstrated financial hardship, the applicant must be required to pay a minimum payment in the amount of \$20.00. The applicant will be informed it is their responsibility to send monthly payments; they will not receive a bill or reminder notice.
3. The applicant can also pay the outstanding restitution or supervision fees immediately.

If the applicant has made a good faith effort to pay

1. If at the end of the period for repayment established by the Division, the applicant has made satisfactory progress towards making the required payments, and/or the applicant pays the outstanding restitution or supervision fees, the Division will submit a Discharge Request and Honorable Discharge Petition to the Court or Parole Board as applicable. The Honorable Discharge will reflect the same date of the Dishonorable Discharge, effectively "replacing" the Dishonorable Discharge.
2. When the signed petition is returned to the Division, a copy will be sent to the applicant along with an explanation of what rights have been restored to him/her.
3. A copy of the signed Petition will be sent to the Criminal History Repository.

If the applicant has not made a good faith effort to pay

1. The Division will deny the application of the applicant.
2. The Division will notify the applicant in writing that the application has been denied.

NAC 213.720 Definitions. (§ 16 of ch. 476, Stats. 2005) As used in NAC 213.720 to 213.790, inclusive, unless the context otherwise requires, the words and terms defined in NAC 213.730, 213.740 and 213.750 have the meanings ascribed to them in those sections.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.730 "Applicant" defined. (§ 16 of ch. 476, Stats. 2005) "Applicant" means a person who submits an application to the Division to change his or her dishonorable discharge from probation or parole to an honorable discharge from probation or parole in accordance with the provisions of section 16 of chapter 476, Statutes of Nevada 2005.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.740 "Chief" defined. (§ 16 of ch. 476, Stats. 2005) "Chief" means the Chief Parole and Probation Officer.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.750 "Division" defined. (§ 16 of ch. 476, Stats. 2005) "Division" means the Division of Parole and Probation of the Department of Public Safety.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.760 Submission of application and supporting documentation and information; action upon receipt. (§ 16 of ch. 476, Stats. 2005)

1. To request that his or her dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole, an applicant must submit to the office of the Chief:

- (a) A completed application, in the form prescribed by the Division;
- (b) Documentation of his or her current income; and
- (c) Any other information requested by the Division.

2. Upon receipt of an application and the supporting documentation and information from an applicant, the Chief shall obtain from the Division the discharge summary pertaining to the applicant and a summary of restitution and fees for supervision paid by the applicant. If necessary, the Chief may request from the Division an audit of the payments made by the applicant.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.770 Action upon determination of eligibility of applicant; monthly payments by applicant. (§ 16 of ch. 476, Stats. 2005)

1. If the Division determines that an applicant is not eligible to change his or her dishonorable discharge to an honorable discharge, the Chief shall:

- (a) Notify the applicant, in writing, that the application has been denied and state the reasons for the denial; and
- (b) Retain copies of the application, the discharge summary, the summary of restitution and fees paid by the applicant, the written notification provided to the applicant pursuant to paragraph (a) and any other supporting documentation or information received from the applicant or considered by the Division.

2. If the Division determines that an applicant is eligible to change his or her dishonorable discharge to an honorable discharge, the Chief shall establish a schedule of payments for the applicant to make over the period for repayment established pursuant to subsection 4. Except as otherwise provided in subsection 3, an applicant must be required to pay a minimum monthly payment in an amount that is equal to four times the hourly wage earned by the applicant.

3. If the Division determines that the applicant has demonstrated an economic hardship, the applicant must be required to pay a minimum monthly payment in the amount of \$20.

4. The period for repayment for an applicant must be:

- (a) One year; or
- (b) A period equal to one-half of the time that the applicant was under the supervision of the Division,

Ê whichever is longer.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.780 Grant or denial of application. (§ 16 of ch. 476, Stats. 2005)

1. If, at the end of the period for repayment established by the Division pursuant to NAC 213.770, the Division determines that the applicant has made an effort in good faith and has made satisfactory progress towards making the required payments, the Division will submit its recommendation that the application should be granted to the court or the State Board of Parole Commissioners, whichever is applicable. Upon notification from the court or the State Board of Parole Commissioners that an application has been granted, the Division will:

- (a) Notify the applicant, in writing, that the application has been granted;
- (b) Forward to the applicant from the court or the State Board of Parole Commissioners, whichever is applicable, the official document which:
 - (1) Provides that he or she has received an honorable discharge from probation or parole; and
 - (2) States, as applicable, the dates on which his or her civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him or her;
- (c) Forward a copy of the official document to the Central Repository for Nevada Records of Criminal History; and
- (d) Retain a copy of the official document.

2. If, at the end of the period for repayment established by the Division pursuant to NAC 213.770, the Division determines that the applicant has not made an effort in good faith and has not made satisfactory progress towards making the required payments, the Division will:

- (a) Deny the application of the applicant; and
- (b) Notify the applicant that the application has been denied.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

NAC 213.790 Availability of information and forms. (§ 16 of ch. 476, Stats. 2005) The Division will make available at its offices, on its website and by mail:

- 1. A written explanation of the provisions of section 16 of chapter 476, Statutes of Nevada 2005, and NAC 213.720 to 213.790, inclusive; and
- 2. The form for an application.

(Added to NAC by Div. of Parole & Probation by R212-05, eff. 5-4-2006)

APPLICATION FOR CHANGE OF DISCHARGE PERSUANT TO SB 282

APPLICANT'S NAME: _____ SS#: _____

DATE OF BIRTH: _____ PHONE #: _____

ADDRESS (CITY/STATE/ZIP): _____

EMAIL ADDRESS: _____

MONTHLY INCOME (Approx.)		MONTHLY EXPENSES (Approx.)	
Regular Job (+ tips)	\$	Rent/House Payment	\$
Part Time Job	\$	Utilities	\$
Spouse Income	\$	Food/Clothing	\$
Unemployment Comp.	\$	Gasoline and car repairs	\$
Workman's Comp.	\$	Car Insurance	\$
Child Support	\$	Health Insurance	\$
General Assistance	\$	Child Care	\$
Food Stamps	\$	Child Support	\$
Social Security Disability	\$	Court Fines	\$
Military Pension	\$	Salary Garnishment	\$
	\$	Medical Bills	\$
	\$	Credit Cards and loans	\$
TOTAL	\$	TOTAL	\$

Checking Account: Yes ☐ No ☐ Bank _____ Balance\$ _____

Savings Account: Yes ☐ No ☐ Bank _____ Balance\$ _____

Total Assets: (Cars, cash, property, homes, jewelry, tools, etc.) \$ _____

Total Debts: (Credit cards, medical bills, loans, legal fees, etc.) \$ _____

How much do you believe you can afford to pay monthly towards your outstanding financial obligations?: \$ _____

OR do you plan on paying your financial obligations in one payment?: _____

Please provide proof of income, disability or any other benefits with this application if requesting a monthly payment plan

The information provided above is true and correct to the best of my knowledge:

APPLICANT SIGNATURE

DATE

EXHIBIT 1-H

EXHIBIT 1-H



Paola M. Armeni, Esq.
parmeni@gordonsilver.com

May 5, 2014

VIA FACSIMILE: (775) 684-2697 and U.S. MAIL

Bernard W. Curtis, Chief
Division of Parole and Probation
Office of the Chief
1445 Old Hot Springs Road, Suite 104
Carson City, Nevada 89706

**Re: Kenneth Coley – Request for Change of Discharge
Our File Number: 100104-083**

Dear Chief Curtis:

Please be advised that in conjunction with Legal Aid Center of Southern Nevada Pro Bono Project our law firm represents Mr. Kenneth Scott Coley, in the above-referenced matter. Mr. Coley came to our office seeking assistance with the sealing of his criminal records. After a review of his criminal history, we learned that Mr. Coley was dishonorably discharged from probation in cases C137870 and C137946 on October 11, 1999. As you are aware, a dishonorable discharge will halt any opportunity to seal Mr. Coley's criminal records. Therefore, the purpose of this letter is to request that Mr. Coley's Dishonorable Discharge from probation be changed to an Honorable Discharge pursuant to NRS 176A.850.

As the Division of Parole and Probation has already acknowledged when it adopted its regulation in support of Section 16 of Senate Bill No. 282 of the 73rd Session of Nevada Legislature, ch. 476, Statutes of Nevada 2005, at page 2360, a dishonorable discharge can be changed to an honorable discharge when certain criteria are met.

Section 16 provides in pertinent part that:¹

"1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this section [June 17, 2005], until July 1, 2008, may apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to the provisions of this section, to request that his

¹ Attached Section 16 of Senate Bill No. 282 of the 73rd Session of Nevada Legislature, ch. 476, Statutes of Nevada 2005, at page 2360 as Exhibit 1.

Gordon Silver

Attorneys and Counselors at Law

May 5, 2014

Page 2

dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

"2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

"(a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;

"(b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

"(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

As it applies to Mr. Coley, his discharge from probation occurred prior to July 1, 2008. Furthermore, at the time Mr. Coley was dishonorably discharged from probation, it is our belief that he did not commit a new crime nor was he involved in any incident involving a commission of a violent act or an act that threatened public safety. Finally, at the time of the discharge, it is our belief that Mr. Coley's whereabouts were known. Based on the above criteria, Mr. Coley is able to apply for the change in the status of his discharge from dishonorable to honorable.

Mr. Coley understands that pursuant to subsection 3 of this section, that if he failed to pay the fees to defray the cost of his supervision pursuant to NRS 213.1076, he must make a good faith effort toward paying the fees owed. As attached hereto as Exhibit 2 – the Application for Change of Discharge, Mr. Coley has submitted the monthly payment he is able to make at this time. Also, attached hereto as Exhibit 3, is the supporting documentation indicating that Mr. Coley is unemployed and his main source of income is social security. Please note that when Mr. Coley originally began to receive food stamps they were in the amount of \$200 as evidenced in Exhibit 3. It is my understanding that his food stamps have been decreased dramatically to the amount shown on Exhibit 2. Unfortunately, we were unable to obtain updated information on the new amount.

We appreciate you taking the time to review Mr. Coley's application and are hopeful that you will change Mr. Coley's discharge from dishonorable to honorable so as to allow him to continue with the sealing process and seal his criminal records.

Gordon Silver

Attorneys and Counselors at Law

May 5, 2014
Page 3

If you have any questions or concerns, please do not hesitate to contact me at 702-796-5555 or via e-mail at parmeni@gordonsilver.com.

Very truly yours,

GORDON SILVER



PAOLA M. ARMENI, ESQ.

PMA/smc

Enclosures: as stated above

EXHIBIT 1

EXHIBIT 1

→ A person described in this subsection may petition ~~{the court in which the person was convicted}~~ *a court of competent jurisdiction* for an order granting the restoration of his civil rights as set forth in subsection 1.

.....
 ↓2005 Statutes of Nevada, Page 2360 (Chapter 476, SB 282)↓

3. Except for a person subject to the limitations set forth in subsection 2, upon his release from prison, a person so released must be given an official document which provides:

- (a) That he has been released from prison;
- (b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his release from prison;
- (c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and
- (d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been released from prison in this State or elsewhere may present:

- (a) Official documentation of his release from prison, if it contains the provisions set forth in subsection 3; or
 - (b) A court order restoring his civil rights,
- as proof that he has been restored to the civil rights set forth in subsection 1.

Sec. 15. Notwithstanding the provisions of sections 1 to 9, inclusive, and 12 of this act, a person is not required to possess a license issued by the State Board of Health to operate or maintain a facility for transitional living for released offenders in this State before January 1, 2006, unless the Board establishes, by regulation, an earlier date for compliance with the amendatory provisions of sections 1 to 9, inclusive, and 12 of this act.

Sec. 16. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this section, until July 1, 2008, may apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to the provisions of this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

- (a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;
- (b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or
- (c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

.....
 ↓2005 Statutes of Nevada, Page 2361 (Chapter 476, SB 282)↓

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

- (a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;
- (b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and
- (c) Must be given an official document which:
 - (1) Provides that he has received an honorable discharge from probation or parole; and
 - (2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2009, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

- (a) The number of persons who applied for a change of discharge pursuant to this section;
- (b) The number of applications that were granted or denied and the general reasons for denial of the applications;

- (c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;
 - (d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and
 - (e) Any other information deemed appropriate by the Division.
- Sec. 17. 1. This section and sections 10, 11 and 13 to 16, inclusive, of this act become effective upon passage and approval.
2. Sections 1 to 9, inclusive, and 12 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

Senate Bill No. 306—Senator Washington

CHAPTER 477

AN ACT relating to local governmental financing; authorizing under certain circumstances the pledge of certain sales and use tax proceeds and state funding for certain projects for the promotion of economic development and tourism; revising certain prerequisites to the pledge of certain sales and use tax proceeds and state funding for certain *projects within a local improvement district; and providing other matters properly relating thereto.*

.....
 ↓2005 Statutes of Nevada, Page 2362 (Chapter 477, SB 306)↓

projects within a local improvement district; and providing other matters properly relating thereto.

[Approved: June 17, 2005]

WHEREAS, The State Legislature recognizes the importance of economic development and tourism to the State of Nevada and the need to compete effectively with other states in the promotion of economic development and tourism; and
 WHEREAS, It is the intention of the State Legislature for the provisions of this act to be carried out for the promotion of economic development and tourism in the State of Nevada and for no other purpose; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 21 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *This chapter shall be known as the Tourism Improvement District Law.*

Sec. 3. *Except as otherwise provided in sections 4 to 7, inclusive, of this act and unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.250, inclusive, and sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"District" means a tourism improvement district created pursuant to section 8 of this act.*

Sec. 5. *"Municipality" means any county or city in this State.*

Sec. 6. *"Project" means:*

1. *With respect to a county whose population is 400,000 or more:*

(a) *An art project, as defined in NRS 271.037;*

(b) *A tourism and entertainment project, as defined in NRS 271.234; or*

(c) *A sports stadium which can be used for the home games of a Major League Baseball or National Football League team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a Major League Baseball or National Football League stadium, including, without limitation, all types of property therefor and immediately adjacent facilities for retail sales, dining and entertainment.*

2. *With respect to a city in a county whose population is 400,000 or more:*

(a) *A project described in paragraph (a), (b) or (c) of subsection 1; or*

(b) *A recreational project, as defined in NRS 268.710.*

3. *With respect to a municipality other than a municipality described in subsection 1 or 2, any project that the municipality is authorized to acquire, improve, equip, operate and maintain pursuant to subsections 1, 2 and 4 to 10, inclusive, of NRS 244A.057 or NRS 268.730 or 271.265, as applicable.*

4. *Any real or personal property suitable for retail, tourism or entertainment purposes.*

.....
 ↓2005 Statutes of Nevada, Page 2363 (Chapter 477, SB 306)↓

EXHIBIT 2

EXHIBIT 2

APPLICATION FOR CHANGE OF DISCHARGE PER SB 282

APPLICANT'S NAME: Kenneth Coley
 SOCIAL SECURITY #: [REDACTED] DATE OF BIRTH: [REDACTED]
 ADDRESS: [REDACTED] STATE: NV ZIP: [REDACTED]
 HOME PHONE: [REDACTED] CELL PHONE: [REDACTED] E-MAIL: [REDACTED]

Monthly Income (approximate)		Monthly Expenses (approximate)	
Regular Job (+ tips)	\$ <u>—</u>	Rent/House Payment	\$ <u>450.00</u>
Part Time Job	\$ <u>—</u>	Utilities	\$ <u>included in rent</u>
Spouse's Income	\$ <u>—</u>	Food/Clothing	\$ <u>150.00</u>
Social Security	\$ <u>903.00</u>	Car Payment	\$ <u>—</u>
Unemployment Comp	\$ <u>—</u>	Gasoline/etc.	\$ <u>—</u>
Workman's Comp	\$ <u>—</u>	Car Insurance	\$ <u>—</u>
Child Support	\$ <u>—</u>	Health Insurance	\$ <u>—</u>
ADC Benefits	\$ <u>—</u>	Child Care	\$ <u>—</u>
Alimony	\$ <u>—</u>	Child Support	\$ <u>—</u>
General Assistance	\$ <u>—</u>	Attorney Fees	\$ <u>—</u>
Food Stamps	\$ <u>59.00</u>	Salary Garnishment	\$ <u>—</u>
	\$ <u>—</u>	Medical Bills	\$ <u>—</u>
	\$ <u>—</u>	Credit Cards	\$ <u>—</u>
	\$ <u>—</u>	Loans	\$ <u>—</u>
	\$ <u>—</u>		\$ <u>—</u>
Total	\$ <u>903.00</u>	Total	\$ <u>600.00</u>

Other Assets (cars, cash, property, homes, jewelry, tools, etc.) 0

Total Income: \$ 912.00 TOTAL OTHER ASSETS: \$ —
 Total Expenses: \$ 600.00 Indicate how much you believe you can afford to pay monthly: \$ 120.00

The information given above is true and correct to the best of my knowledge.

SIGNATURE [Signature]

(OFFICE USE ONLY)	
BLN: <u>—</u>	CASE # <u>—</u> DISCHARGE DATE <u>—</u>
Convicted of a felony other than the above stated conviction?	YES <input type="checkbox"/> NO <input type="checkbox"/> VERIFIED <u>—</u>
Absconder at the time of discharge?	YES <input type="checkbox"/> NO <input type="checkbox"/> VERIFIED <u>—</u>
Restitution owed: \$ <u>—</u>	PAID IN FULL <input type="checkbox"/> VERIFIED <u>—</u>
Supervision fees owed: \$ <u>—</u>	PAID IN FULL <input type="checkbox"/> VERIFIED <u>—</u>
P. Honorable Discharge recommended	<input type="checkbox"/> Honorable Discharge granted <input type="checkbox"/> paper work sent
<input type="checkbox"/> Honorable Discharge denied	<input type="checkbox"/> letter sent

EXHIBIT 3

EXHIBIT 3

*** INBOUND NOTIFICATION : FAX RECEIVED SUCCESSFULLY ***

TIME RECEIVED

May 1, 2014 6:09:40 PM PDT

REMOTE CSID
7023078378

DURATION
73

PAGES
2

STATUS
Received

05/01/2014 18:09 7023078378

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PAGE 01/02

Your New Benefit Amount

0634746

Kenneth S. Coley

Attn: Stacey
or
Paolai

BENEFICIARY'S NAME: KENNETH S COLEY

Your Social Security benefits will increase by 1.7 percent in 2013 because of a rise in the cost of living. You can use this letter when you need proof of your benefit amount to receive food, rent, or energy assistance; bank loans; or for other business. Saving this letter could save you the inconvenience of making a trip to a local office and waiting in line to obtain a new document.

How Much Will I Get And When?

- Your monthly amount (before deductions) is \$900.00.
- The amount we deduct for Medicare medical insurance is \$0.00.
(If you did not have Medicare as of Nov. 15, 2012,
or if someone else pays your premium, we show \$0.00.)
- The amount we deduct for your Medicare prescription drug plan is \$0.00.
(If you did not elect withholding as of Nov. 1, 2012, we show \$0.00.)
- The amount we deduct for voluntary Federal tax withholding is \$0.00.
(If you did not elect voluntary tax withholding as of
Nov. 15, 2012, we show \$0.00.)
- After we take any other deductions, you will receive \$900.00
on Jan. 9, 2013.

If you disagree with any of these amounts, you must write to us within 60 days from the date you receive this letter. We would be happy to review the amounts.

You may receive your benefits through direct deposit, a Direct Express® card, or an Electronic Transfer Account. If you still receive a check, please remember that you must switch to an electronic payment by March 1, 2013. For more information, please visit www.godirect.org or call 1-800-333-1795.

What If I Have Questions?

Please visit our website at www.socialsecurity.gov for more information and a variety of online services. You also can call 1-800-772-1213 and speak to a representative from 7 a.m. until 7 p.m., Monday through Friday. Recorded information and services are available 24 hours a day. Our lines are busiest early in the week, early in the month, as well as during the week between Christmas and New Year's Day; it is best to call at other times. If you are deaf or hard of hearing, call our TTY number, 1-800-325-0778. If you are outside the United States, you can contact any U.S. embassy or consulate office. Please have your Social Security claim number available when you call or visit and include it on any letter you send to Social Security. If you are inside the United States, and need assistance of any kind, you also can visit your local office.

SUITE 150
1250 S BUFFALO DR
LAS VEGAS NV

05/01/2014 18:03 7023078378

PAGE 02/02

KENNETH SCOTT COLEY

CASE-ID: [REDACTED]

PAGE NO: 02

MAXIMUM NET COUNTABLE INCOME
FOR A 1 PERSON HOUSEHOLD = \$ 931.00

THE CALCULATED FOOD STAMP BENEFITS FOR
YOUR HOUSEHOLD OF 1 FOR THIS MONTH = \$ 200.00

OVERPAYMENT RECOVERY = \$.00
NET FOOD STAMP BENEFITS = \$ 200.00

Nevada

SOLA

PAOLA M. ARMENI, ESQ.

Nevada Bar No.: 8357

Gordon Silver

3960 Howard Hughes Parkway 9th Floor

Las Vegas, Nevada 89169

Telephone (702) 796-5555

Facsimile (702) 369-2666

parmeni@gordonsilver.com

Attorney for the Petitioner

In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

DISTRICT COURT

CLARK COUNTY, NEVADA

Kenneth Scott Coley aka King Coley)

Plaintiff/Petitioner,)

vs.)

Nevada Department of Public Safety,)

Division of Parole and Probation;)

DOES I-X; and ROE ENTITIES)

I-X, inclusive.)

Defendant/Respondent.)

CASE NO.

DEPT.

**STATEMENT OF LEGAL AID
REPRESENTATION
(PURSUANT TO NRS 12.015)**

Party Filing Statement:

☒ Plaintiff/Petitioner

☐ Defendant/Respondent

STATEMENT

KENNETH COLEY, has qualified and has been accepted for placement as a Pro Bono client or as a direct client of LEGAL AID CENTER OF SOUTHERN NEVADA, a nonprofit organization providing free legal assistance to indigents, and is entitled to pursue or defend this action without costs, including filing fees and fees for service of writ, process, pleading or paper without charge, as set forth in NRS 12.015.

Dated: December 23, 2014.

BARBARA BUCKLEY, ESQ.

Legal Aid Center of Southern Nevada Preparer

Nevada Bar No.: 3918

/s/ Barbara E. Buckley

Signature of Legal Aid Center of Southern Nevada Preparer

Submitted by:

Paola M. Armeni, Esq.

Gordon Silver

3960 Howard Hughes Parkway 9th Floor

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IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

NEVADA DEPARTMENT OF PUBLIC
SAFETY, DIVISION OF PAROLE AND
PROBATION,
Appellant,
vs.
KENNETH SCOTT COLEY, A/K/A KING
COLEY,
Respondent

No. 67864

Electronically Filed
May 13 2015 12:43 p.m.

Tracie K. Lindeman
Clerk of the Supreme Court
DOCKETING STATEMENTS
CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Judicial District Department XXV
County CLARK Judge KATHLEEN DELANEY
District Ct. Case No. 96C137946

2. Attorney filing this docketing statement:

Attorney Adam D. Honey Telephone (702) 486-3573
Firm Office of the Nevada Attorney General
Address 555 East Washington Avenue, Suite 3900, Las Vegas, Nevada 89101

Client(s) Nevada Department of Public Safety, Division of Parole and Probation

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Paola M. Armeni Telephone (702) 880-0000
Firm Gentile, Cristalli, Miller, Armeni & Savarese, PLLC
Address 410 South Rampart Blvd. Suite 420
Las Vegas, Nevada 89145

Client(s) Kenneth Scott Coley a/k/a King Coley

Attorney Colleen E. McCarty Telephone (702) 796-5555
Firm Gordon Silver
Address 3960 Howard Hughes Parkway, 9th Floor
Las Vegas, Nevada 89169

Client(s) Kenneth Scott Coley a/k/a King Coley

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>Petition granted</u> |

5. Does this appeal raise issues concerning any of the following? NO

- ☐ Child Custody
☐ Venue
☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

State of Nevada vs. Kenneth S. Coley; Case No. 96C137946; 8th Judicial District Court; Disposition Date September 5, 1999

Appellee's Petition for Writ of Mandamus; Case No. A-14-711767-W; 8th Judicial District Court

Appellee's Petition for Writ of Mandamus was originally filed as a civil matter in case A-14-711767-W but heard by agreement of the parties and court in the criminal case No. 96C137946 as civil department did not want to hear what they determined was a criminal case issue.

8. Nature of the action. Briefly describe the nature of the action and the result below:

Appellee filed a civil Writ for Mandamus seeking an order directing Appellant to change a dishonorable discharge from probation to an honorable discharge under an uncoded 2005 statute, 2005 Statutes of Nevada at Chapter 476 §16 p. 2360-2361.

The district court ruled that the statute was no longer in effect as of July 2008, but nonetheless Appellant has discretion under the applicable Nevada Administrative Code, ("NAC"), and by providing the application and considering the same Appellee is now entitled to complete the application process. Appellant was ordered to allow Appellee to avail himself of and complete the process pursuant to NAC 213.720-213.790.

9. Issues on appeal. State specifically all issues in this appeal (attach separate sheets as necessary):

Whether or not Appellant has discretion under NAC 213.720-213.790 to act pursuant to 2005 Statutes of Nevada at Chapter 476 §16 p. 2360-2361 to make a recommendation to the sentencing court for a change in discharge status from parole when the 2005 statute is no longer in effect.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Trial. If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from April 2, 2015

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served April 3, 2015

Was service

☐ Delivery

☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service

☐ Delivery

☐ Mail

18. Date notice of appeal filed April 20, 2015

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, *NRAP 4(a)* or *other*

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The district court's order resolved all issues in dispute raised by the appellant's writ for mandamus. There is nothing remaining to be adjudicated by the parties.

The Petition for Writ of Mandamus was originally filed in a civil court. The civil court declined to hear the issue. The parties agreed to let the writ be heard by the original criminal court department under the criminal case number for the sake of judicial economy. Nonetheless, at all times it was considered a civil remedy that was sought.

NRAP3A(b)(1) allows an appeal may be taken from the final judgment or orders of a district court.

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Kenneth Scott Coley aka King Coley

Nevada Department of Public Safety, Division of Parole and Probation

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

N/A

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

A final judgment or order of the district court is appealable under NRAP 3A(b)(1).

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

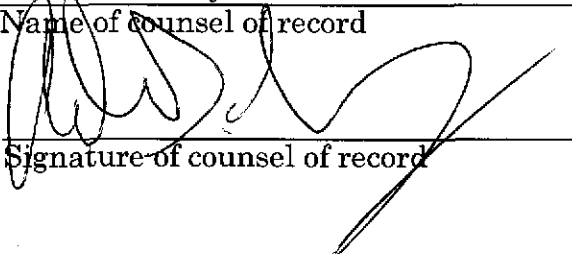
VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Nevada Department of Public Safety
Name of appellant

May 13, 2015
Date

Nevada, Clark County
State and county where signed

Adam D. Honey
Name of counsel of record

Signature of counsel of record

CERTIFICATE OF SERVICE

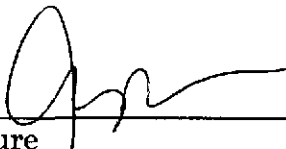
I certify that on the 13th day of May, 2015, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Paola M. Armeni
Gentile, Cristalli, Miller, Armeni & Savarese, PLLC
410 S. Rampart Blvd., Ste. 420
Las Vegas, Nevada 89145

Colleen E. McCarty
Gordon Silver
3960 Howard Hughes Parkway, 9th Floor
Las Vegas, Nevada 89169

Dated this 13th day of May, 2015


Signature