

NO. 69073

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LAWRENCE SPARKS,

Petitioner,

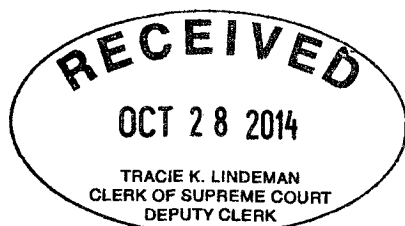
vs.

ROB BARE, J., EIGHTH JUDICIAL COURT;
STEVEN D. GRIERSON, CEO/CLERK OF
THE EIGHTH JUDICIAL DISTRICT
COURT; HENDERSON CLERK OF THE
MUNICIPAL COURT, THE HONORABLE
MARK J. STEVENS, PRESIDING,

Respondents.

**PETITION FOR WRIT
PROHIBITION, AND/OR, IN
THE ALTERNATIVE WRIT OF
MANDAMUS; AND/OR WRIT
OF CERTIORARI**

Petitioner, LAWRENCE SPARKS, hereby petitions for a Writ of Mandamus, requiring STEVEN D. GRIERSON, CEO/Clerk of the Eighth Judicial District Court, acting outside the jurisdictional authority of his office and/or committing malfeasance and/or misfeasance of office (See **NRS 34.160**); In addition, the Petitioner hereby petitions for a Writ of Prohibition, preventing the exercise of jurisdictional authority over the Petitioner by the HENDERSON MUNICIPAL COURT, THE HONORABLE MARK J. STEVENS, J., due to the Remittitur having been issued in error, without a final signed order on the record of the superior court, which would transfer jurisdiction. (See **NRS 34.320**). That this Honorable Court issue a Writ of



16-27029

Mandate regarding the Honorable Rob Bare, J., of the Eight Judicial District Court for his failure or refusal to issue a written, signed and filed a lawful Order with the Clerk of the Court.

Further, the Petitioner requests that this Honorable Court exercise its discretionary jurisdiction and issue a Writ of Certiorari setting aside his conviction for failure to obey a traffic control device. This conviction required the Henderson Municipal Judge Mark J. Stevens, J., to disavow his oath of office. This occurred when Judge Stevens refused to acknowledge the supremacy clause of the United States Constitution, to wit: that the Manual of Uniform Traffic Control Devices [MUTCD], a fact and law based congressional mandate, and proceeds to passes an *Ex post facto* law barred by the Nevada and U.S. Constitution, Art. I, §10(1). The City of Henderson charged the Petitioner herein with failure to come to a “complete stop” at a stop sign that was at an intersection closed to public vehicular travel, due to a community event. The City of Henderson alleges that the Petitioner’s violation is a violation of an un-cited controlling section of the MUTCD. The City’s belief is unfounded: MUTCD Section 1A.01: “Purpose of Traffic Control Devices” clearly states the Federal Regulated Control Devices [are used on roads open to public travel],¹ (Exhibit

¹ MUTCD 2009 Edition and Ammendments CH 1A.01 Purpose of Traffic Control Devices (See Sec.

A(1-2)). Concurrently, the Henderson Municipal Code, § 10.02.010, sets forth that the City's traffic laws are derived from the MUTCD, which regulations, under the supremacy clause supersedes all State and local laws. The Henderson PD, the Henderson Municipal Court and the Henderson City Attorney, all need to wrap their heads around the idea that the MUTCD is the law everywhere in America and it is the MUTCD from which the law flows, not the sign itself. So if a traffic control device is erected and does not meet the fact and law based requirements of the MUTCD, then the sign has no force of law. The traffic control device would be just as the Petitioner described it to the Henderson Police Officer – and recorded on the Officer's dash cam – “a suggestion.” This recording comes as an admission from the City's Attorney's Office. As a result of this admission, there is no excuse having not knowing there was no need to come to a complete stop and was indeed only “a suggestion.”

COURT'S JURISDICTION IN PROHIBITION

NRS 34.320 prescribes the matters which may be brought under the Writ of Prohibition. See, *State v. Eighth Judicial Dist. Court*, 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002)). (A writ of prohibition is available when a district court acts without or in excess of its jurisdiction). Ordering the Henderson Municipal to

cease and desist from exercising jurisdiction over the Petitioner or his case until the Appellate court issues a lawfully written, filed decision or until further action overturns the illegal Constitution decision, (Art. I, §10(1)).

COURT'S JURISDICTION IN MANDAMUS

Whereas, under **NRS 34.160**, the Writ of Mandamus, requiring the Respondent to perform its non-discretionary authority in not transmitting the Remittitur under a written decision on the Petitioner's Appeal has been signed and filed with the Clerk's office, (**NRS 34.160**, *Mt'l Game Tech, Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008)). (A Writ of Mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion); or, in the alternative, for a Writ of Habeas Corpus.

The Petitioner requests that the Court order the Court Clerk/CEO, Steven D. Grierson, to recall the Remittitur, which was improperly issued, (**NRS 34.320**, *State v. Eighth Judicial Dist. Court*, 118 Nev. 140, 146- 47, 42 P.3d 233, 237 (2002)); (A writ of prohibition is available when a district court acts without or in excess of its jurisdiction.); or, in the alternative for a Writ of Mandamus, requiring

the Respondent Court to perform its non-discretionary judicial authority in rendering a decision on the Petitioner's Motion to Dismiss (jurisdictional challenge) by making specific findings of fact and conclusions of law, (NRS 34.160, (*Mt'l Game Tech, Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008))); (A Writ of Mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, agency, or station, or to control an arbitrary or capricious exercise of discretion); or, in the alternative, a Writ of Habeas Certiorari Ordering the lower court to discharge the Petitioner from or set aside the lower court conviction.

COURT'S JURISDICTION BY WAY OF CERTIORARI

This Court has authority under **NRS 34.020**. Whether an appellate court on a writ of certiorari may annul the proceedings of an inferior court for an error it may have committed prejudicial to the rights of the petitioner, although no excess of authority was involved, is no longer a question of practical importance in this State, because by §§436 and 442, ch. 112, Stats. 1869 (cf. NRS 34.020 and 34.090), **the Legislature has limited the function of a writ to a review of** the jurisdiction of inferior tribunals and **the regularity of their proceedings**, (*In re Wixom*, 12 Nev. 219 (1877)). Where a party sought a writ of certiorari for review

of an action of the trial court in having adjudged him guilty of contempt, the appellate court was obliged to follow the provisions of sec. 436, ch. 112, Stats. 1869 (cf. NRS 34.020), which provides that a writ shall be granted where an inferior tribunal exercising judicial functions has exceeded its jurisdiction and there is no plain, speedy and adequate remedy, and could not act upon the common-law rule under which courts often exercised their discretion in granting or refusing a writ according to the justice of the case:

(*Phillips v. Welch*, 12 Nev. 158 (1877)), (cited, *Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev. 287, at 289, 607 P.2d 1140 (1980)), see also *Washington v. Clark County Liquor & Gaming Licensing Bd.*, 100 Nev. 425, at 427, 428, 683 P.2d 31 (1984), *Dangberg Holdings Nevada, L.L.C. v. Douglas County*, 115 Nev. 129, at 138, 978 P.2d 311 (1999).

FACTS

The Petitioner went to trial in the Henderson Municipal Court in front of the Honorable Mark J. Stevens, J., who voluntarily disavowed his oath of office and found the Petitioner guilty of the charge failing to stop at a stop sign, aka/ failure to obey a traffic control device. The Petitioner's defense below was that the Manual on Uniform Traffic Control Devices, [the MUTCD], was controlling. The Henderson City attorney and Judge Stevens disagreed. Thus, Petitioner files a *Memorandum in Support of Appeal*, (**Exhibit B**).

The MUTCD is a Congressional Mandate requiring Cities, Counties and States to conform to federal standards regarding all roadway signage are in fact

“Federally Regulated Safety Devices” used on streets, highways, bikeways, and private roads *Open [only] to public travel throughout the Nation*, MUTCD, SECTION 1A.01: Purpose of Traffic Control Devices. It is the position of Henderson City Attorney, Josh Reid, that the place of a sign establishes its own legal authority, independent of the MUTCD. Mr. Reid is once again totally misinformed. The Henderson City Code states in HMC §10.02.010, indicates that the MUTCD is adopted and incorporated by reference by the City of Henderson, including the 2009 revisions. The Henderson Municipal Code states that a copy of the MUTCD is available for viewing in the Clerk’s office. This is not true. The Petitioner went to the Clerk’s office and requested to view the MUTCD and was told they did not know of its existence; later to be found in the Office of Henderson Public Works. However, the MUTCD, according to the Henderson Municipal Code is controlling.

ABOUT THE MUTCD

The MUTCD is a congressionally mandated Manual of Uniform Traffic Control Devices, (MUTCD). This manual not only controls the size, shape, color and method of presentation to a motorist or operator of a motor vehicle, but also control when and where a traffic control device may be placed. In other words, under federal law, an agency cannot just put a Stop sign, Speed sign, or any other

traffic control device wherever it pleases or for any whimsical reason. Traffic control devices, as *federal regulated safety devices*, require engineering studies to be submitted to the FHWA by jurisdictional public works agencies to make changes for approval by the FHWA, in the interest of maintaining national uniformity or be subject to tort actions.

In fact, the congressionally mandated MUTCD requires every State, County and City to substantially conform to the MUTCD or suffer sanctions. Of particular importance, as it relates to this case, a Stop Sign, in and of itself does not contain or possess any legal authority. In other words, the sign itself is not law and conveys no legal authority by its mere presence. Before a traffic control device is required to be obeyed by any motorist, it must comport with the legal requirements under the MUTCD. In the instant case, the traffic control device in question, was a Stop Sign. However, upon closer examination it was at an intersection that did not, according to the city traffic engineer/commissioner, meet the lawful requirements of the MUTCD. The MUTCD requires the following for a Stop Sign to be placed at any location: Vehicular Traffic at the intersection must be at least 6,000 vehicle traffic count per day; must be at least three accidents at the intersection within a twelve month period, or five or more crashes within a two year period, (MUTCD § 2B 06-08). The intersection where the Stop Sign was

posted met none of these requirements. In checking with the City Traffic Engineer showed his statistics to reveal the following: A traffic count of no more than 1,800 per day. Based upon this federal mandate, even if the road had not been closed for public travel, the Stop Sign in this case, posted by the City of Henderson, was an unlawfully posted traffic control device without approval by the FHWA based on an approved engineer study. As such, under the existing conditions did not require the Petitioner's obedience, nor did it impose a duty pursuant to MUTCD § 2B 06-08.

Further, one of the requirements of the MUTCD is that Traffic Control Devices bear no legal authority or duty on roads or streets that are either not open to public travel or are not maintained by the public. In this particular case, the Petitioner was cited for failure to stop at a stop sign that was within the restricted travel area of a public event, **(Exhibit A (1))**. This section of the road was only open to purveyors for the event and emergency vehicles at the time of the citation. The stop sign that the Petitioner is alleged to have ignored was not in substantial compliance with the MUTCD and; therefore, regardless of it being posted - it conveyed, nor imposed, any legal authority upon the Petitioner or jurisdiction upon the police officer that cited him for not obeying it. The MUTCD is all encompassing Congressional Mandate and applies to every level of government in

these 50 states.

It becomes evident that the Henderson Police Department, the Henderson City Attorney's Office, nor the Henderson Municipal Court knew little or nothing of the MUTCD nor understood the Federal authority emanating from what authority it conveys to police, prosecutors, and judges.

The Deputy City Attorney took almost fiendish delight in producing an audio recording from the patrol vehicle where I was recorded informing the Henderson Police officer the Stop Sign was merely a suggestion for lack of traffic.

FOR JUDICIAL NOTICE

Where public travel is denied, as it was at that intersection, because of a planned event, all federal regulated safety devices are outside the jurisdiction of all agencies responsible for enforcement: including the MUTCD, State, County, City, and all other agencies responsible for enforcement, (Exhibit Section 1A.01: Purpose of Traffic Control Devices, (MUTCD)).

The Petitioner appealed to the District Court to receive justice. Instead, the Honorable Rob Bare, J., instructed the Henderson female prosecutor to file a motion to dismiss for failure to perfect appeal, to get rid of the Petitioner's case. This Motion introduces no law based support for the Motion to Dismiss, (Exhibit C). Petitioner files *Notice of Perfection of Appeal*, (Exhibit D). City of Henderson response, was filed, June 11, 2015, and filled with all kinds of informative information relating to appeal from the District Court to the Nevada

Supreme Court, frequently referring to the Nevada Rules of Appellate Procedure, **(Exhibit E)**. The so-called support for the Respondents position was based solely on non-law based presumptions. The Honorable Rob Bare, J., allowing the female prosecutor on the Petitioner's case to violate Supreme Court Rule 172: *Candor to the Tribunal*. As such, Judge Bare knowingly allows the female Deputy City Attorney to present case law to the court that was clearly inapplicable and that was in fact committing *Actual Fraud*. In other words, the prosecutor lied to the Court and the Judge Bare knowingly permitted the fraud, vacated his Oath, and ruled in favor of the female respondent. This will be discussed in more detail below in argument.

At the hearing on the Motion to Dismiss, Judge Bare called the case and without the normal pleasantries, that Judge Bare is so inclined to dish out to the females attorney that appear before him, he announced that the hearing was to determine the City of Henderson's Motion to Dismiss. Judge Bare granted the disconcerting Motion to Dismiss with a pronounced and curt, "Thank you, your case is over."

This multifaceted Writ is compelled by the facts and actions of Officers of the Court associated with the judicial system between the Henderson Municipal Court, the Henderson City Attorney's Office, Clark County District Appellate

Court and the CEO/Clerk of the 8th Judicial District of Nevada, are involved in a *Racketeering* scheme under color of law. In support of this rather offensive discovery, the Petitioner offers the following list of events.

Carelessness of the Henderson Municipal Court its Clerk's Office and of the Henderson City Attorney's Office

- (1) The Henderson Municipal Court, unilaterally, refuses to issue Judgments of Conviction;
- (2) Without a judgment of conviction, the District Court cannot hear an appeal.
- (3) Adding insult to injury, the Clerk(s) of the Henderson Municipal Court provide incorrect legal advice to individuals who have expressed an intent to appeal, to wit: "You must order the transcript from an outside transcript preparation company and pay for it." This legal advice is not law or fact based and is not to be found anywhere in a Statute or Court Rules.
- (4) The next level of carelessness is rife with lack of fidelity to process. After the Petitioner's case is remanded to the Henderson Municipal Court, through an unlawfully rendered Remittitur, the Henderson Municipal Court is set to fully execute on the Judgment of the underlying criminal charge, to wit: Failure to obey a Traffic Control device, (a stop sign). The Henderson Municipal Court intends to do this without any Judgment of Conviction on the Record. The Court and the Clerk's office know or should know by now

the Petitioner's sentence cannot be enforced without a written judgment of conviction. But for routine procedure; it is apparent, the City of Henderson and its judicial system generally ignore the letter of the law in contempt of Oath.

- (5) Last, but not least, the Henderson Municipal Court charges criminal defendants a filing fee for the filing of a Notice of Appeal. This is in complete and total violation of **NRS 2.250**, which states, "The State or its political subdivisions cannot charge a criminal defendant for the filing of documents or papers with the court."

JUDGE BARE'S (MIA CULPA) VIOLATES HIS OATH OF OFFICE

- (6) Appellate Justice Court Judge Bare intentionally misapprehends the Nevada Rules of Appellate Procedure, **NRAP Rule 1A**, as to apply to appeals from the Municipal Courts to the District Courts. This is patently false and, this Court has repeatedly stated this, although not in any published opinions that the Petitioner is aware of. However, this Court did make this statement in an unpublished decision, which the Petitioner refers to; not for precedence, but rather, to show that this Court has already establish a public policy toward this end, [See *Hart v. Eighth Judicial District Court*, Docket No. 56238 (2010)]

- (7) Judge Bare also tends to make up his own law as he goes along, something legal scholars call *ad hoc* adjudication or *judicial activism*, while many *pro se* litigants call it a violation of the judge's oath of office; Perhaps more appropriately defined as "Anarchy."
- (8) This is routinely demonstrated by Judge Bear's implementation of a two party system of justice in his Courtroom. He has honed his legal skills and developed one kind of justice for litigants represented by attorney's and another program for *pro se* litigants – which is based upon moral relativism, a Marxist/Engles "Play book" or concept, and not law based. This two party system is demonstrated by Judge Bare's ruling in *Roose v. State, infra*. Judge Bare's conduct in this case is clear error and contrary to his own opinion that he rendered on 03/24/2015 in *Roose v. State*, 2 case, Case No. C-14-295710 (page 6, lis. 19-22) (modified later without substantial change in language cited below), wherein Judge Bare states (specifically citing to **NRAP 4**) that he is *required*, by law,

" . . . to enter a written order finally resolving any post-conviction matters and the order in any post-conviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision."

All the while, **NRAP 1(a)** states that these rules apply ONLY to appeals

from the District Court to the Nevada Supreme Court. The Judicial acumen here is embarrassing. Even a *pro se* litigant can figure this out. Point being: No decision has been rendered in this case.

- (9) To make matters even worse, the City of Henderson's female attorney, was schooled by Judge Bare, from the bench, to prepare a Motion to Dismiss the Petitioner's Appeal for the Petitioner's failure to perfect it. This Motion, attached as (EXHIBIT C), demonstrates that she did nothing more than follow Judge Bare's incorrect position in adopting the NRAP. Every case cited by the office of the Henderson City Attorney has to do with an appeal from the District Court to the Nevada Supreme Court which requires the moving party to provide the record.
- (10) The fact that Judge Bare immediately, without any oral argument, granted the Female Deputy City Attorney's argument is *prima facie* evidence that there are two separate courts held *synchronously* in Judge Bare's court demonstrating a clear *Pro Se* bias and proof he is cognizant that he intentionally abandons his Oath of Office. Instead of following his Oath denies this petitioner, as he has many other *pro se* litigants, procedural due process, (*Carey v. Piphus*, 435 U.S. 247, 266-67, 98 S.Ct. 1042, 1054, 55 l.Ed.2d 252 (1978)).

- (11) Even though Judge Bare's finding on the Henderson City Attorney's Motion is glaringly incorrect, the Honorable Judge Bare then issues a minute Order yet to be entered.
- (12) Although the *minute order* has yet to be entered, there is another similar case that is currently before this Court under Docket No. 68762, a similar Multifaceted Writ filed by one Michael Little. In Mr. Little's case, somewhat similar to mine except his case was supposedly heard on the merits and mine was dismissed for failure to perfect an appeal. Judge Bare simply issues a minute order as well followed shortly after with an actual Order. Then after Mr. Little filed his Writ to this Court, the Honorable Judge Bare, knowingly the Remittitur in Mr. Little's case has issued; and, that the issuance of the Remittitur completely deprives him of acting any further on Mr. Little's case. Judge Bare, several months later, issued written signed orders on both of Mr. Little's cases, and had them filed.
- (13) What is inherently wrong with Judge Bare's act? Aside from the fact: (a) He doesn't have the jurisdiction to write an order, let alone file one, and (b), before he has the authority to write an order, the Remittitur must be recalled. (c), the most disturbing about his decision to dismiss my case on the grounds the Petitioner has yet to perfect his appeal, to wit; having not

provided the transcript from the lower courts alleged judgment.

- (14) What is most egregious about the ruling to dismiss, is that Judge Bear combines NRAP Rule 1.(a) and NRS 189.030, taking them out of their individual context and truncates them to create one *Rule* or one *Statute* to fit all occasions without consideration of the general meaning or purpose of the two separate law based procedures and to make them to appear one size fits all. Not only is this unconstitutional, but violates the Petitioner's Procedural Due Process and his right to appeal. The philosophy used here by Judge Bare, is straight from the Karl Marx/Engles Official (play book), (*dialectical materialism*); He does this time and time again without reprisal.

Judge Bare's attempt to cover his backside by following NRAP 4, as he appears inclined to believe directs him to do an order in each case (unless of course you are a *pro se* litigant, then he simply ignores his own dictates).

**ENTERS THE CLARK COUNTY COURT CLERK
- STEVE GRIERSON, & CEO - (?)**

- (15) As with Michael Little's case, Judge Bare has delayed minute order in the Petitioner's case and, as such, the Clerk's office has no authority to issue a Remittitur. However, in its place, the Judge issues a written judgment of which he has no Jurisdiction without a signed and entered judgment of

conviction. But CEO/Clerk, Grierson files a Remittitur anyway. Under normal circumstances the Petitioner would protest in the form of a letter to the Clerk's office requesting it fix this problem and would also send a letter to the Honorable Rob Bare, requesting that he intercede and cause the same to occur. However, after reviewing Mr. Little filing with this Court, it appears that he sent certified letters both to CEO/Clerk, Steven Grierson, and to the Honorable Judge Bare. Mr. Little's record and his rendition of the facts reveals that neither Judge Bare or CEO/Clerk, Grierson had the courtesy, as public servants, to answer either of his letters. Therefore, as the law does not require the doing of vain things.¹

It is reasonable to assume this Petitioner herein is not to pursue such frivolous ends that have proven to be pointless. Surely, each of these individuals occupying government positions mentioned above make six figures a year on the public dime and not one of them know the law well enough to grasp what their responsibilities entail. As a result, the Petitioner is deprived of meaningful access to the seat of government and is being deprived of his first Amendment Right to redress the government for grievances. What good is a Right when the Judge

¹ *Holmes v. District Court*, 58 Nev. 352, 360 (1938).

(who's supposed to protect your rights under the Constitution) can't wait to deprive you of it?

"The literal meaning of due process is *fair procedure*." Schwartz, ADMINISTRATIVE LAW (1984), P. 202. "Due process guarantees that the State will *treat individuals with fundamental fairness*." Rehnquist, J., dissenting, in *Santoski v. Kramer*, 455 U.S. 745, 770 (1982).

LAW AND ARGUMENT

1. WRIT OF CERTIORARI:

This case began with the State's first carelessness of fidelity to process, to wit: The judge dismissed the Petitioner's Appeal by applying the Nevada Rules of Appellate Procedure. This is nothing short of embarrassing. The Petitioner, herein, requests the Court's intervention by way of Certiorari for the following reasons:

(a) The United States Supreme Court has stated in *Carey v. Phipus*, 435 U.S. 247, 266-67, 98 S.Ct. 1042, 1054, 55 L.Ed.2d 252 (1978):

"The right to procedural due process is '**absolute**' and 'the law recognizes the importance to organized society that those right be *scrupulously* observed.' Thus, the '**absolute**' right to adequate procedures stands independent from the ultimate outcome of the hearing. See *Carey*, 435 U.S. at 266-67, 98 S.Ct. 1054. (Emphasis added).

The Petitioner has a statutory right to appeal. Once that Statutory Right becomes ripe, the Petitioner's statutory right falls within the penumbra of the due process

clauses of the United States Constitution and the Nevada Constitution.

Thereafter, (a) The Petitioner as an **absolute** right to be treated fairly under the exercise of this Right. This did not happen in this case. Judge Bare, for whatever reason, be it his health or a loss of clarity of mind, or just simply having a bad day, has dismissed the Petitioner's appeal based upon no rule of law; no administrative rule, or statute.

(b) It is a fortiori that there is not one statute or court rule that is applicable to the Petitioner's appeal that has been cited by the city of the Judge Bare *that directs the Appellant to order the Transcript*. The Petitioner is well aware that if he orders the transcript (whether he is required to or not) he must pay for it. That is perfectly clear. However, what is not clear is that the statutes state, unambiguously, the Court must transmit the record within 10 days and the record includes the transcript. Further, the Clerk of the Court was required by statute to notify the Petitioner, herein, when the record and the transcript has been transmitted. These issues are discussed in the Petitioner's "Notice of Perfection of Appeal" attached hereto as **EXHIBIT D**.

(c) By failing to acknowledge these statutes, Judge Bare has committed a repeal by implication. Repeals by implication are not favored, nor are they Constitutional. Nevada follows the general rule that repeals by implication are not

avored, (*State v. Reese*, 57 Nev. 125, 59 P.2d 697 (1936)).

(d) Generally, when “the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for the meaning beyond the Statute, (*Supra. Attorney*).

(e) In *State v. Hamilton*, 33 Nev. 418, ___ P. ___ (1910) this court held, Another well-settled rule of construction is that, where one section of a statute treats specifically of a matter, it will prevail over other sections in which incidental or general reference is made to the same matter. (*Long v. Culp*, 14 Kan. 312; *State v. Commissioner*, 37 N.J. Law, 228.) (Emphasis added).

Here, the statutes talk about the Court transmitting the record, it does not talk about the Appellant transmitting the record. Further, the Court is required to notify the Defendant/Appellant when the record is transmitted, not the other way around as Judge Bare exploits seem to dictate.

(f) Charging an Appellant for the trial transcript is completely antipodal to the legislative directive, **NRS 2.250**, which sets forth that: “The State or its political subdivisions cannot charge a criminal defendant for the filing of documents or papers with the court.” Charging the Defendant, who wishes to appeal his conviction, with the costs of the preparation of the transcripts is a clear violation of this preliminary statute.² It should be noted, as set forth above, that the

²

The City of Henderson also violates this Statute by Charging a Criminal

Henderson Municipal Court Clerk's Office has for over 20 years been violating this Statute by charging defendants who file a Notice of Appeal a filing fee. This must stop and this Court has the authority to do just that.

The Petitioner has done everything that the law requires him to do to perfect his appeal. There is not one single court rule or one single statute that he has not complied with; as such he should not be required to forfeit his right to appeal. An individual may not be punished for exercising a protected statutory or constitutional right, (*United States v. Goodwin*, 457 U.S. 368, 372, 1092 S.Ct. 2485, 2488, 73 L.Ed.2d 74 (1982)); To punish a person because he has done what the law plainly requires him to do is a due process violation of the most basic sort, (*Bordenkircher v. Hayes*, 434 U.S. 357, 3363, 98 S.Ct. 663, 668, 54 L.Ed.2d 604 (1978)).

What does require Honorable Mention here, though, is the fact that even if the Petitioner did EVERYTHING required of him by statute and court rule, he still, technically, through no fault of his own, is incapable of perfecting his appeal. So, even if the Petitioner complied with Judge Bare's demands that he order and pay for the transcripts his appeal, it still would not be perfected.

Defendant a *fee* to file their notice of appeal – Totally illegal.

How is this possible? The Henderson Municipal Court, has found, in their infinite wisdom, that they no longer need to have a written, signed and filed Judgement of Conviction on misdemeanor cases. What this means, as the argument below will show: The conviction, technically, cannot be appealed. This, is, of course, a Bill of Pains and Penalties.

2. **MANDAMUS AND/OR PROHIBITION:**

This case then now moves to the second imprudent act of the Government's fidelity to process: Evidence is found in the State's penchant to disregard the rights of *pro se* litigants, constituting a Bill of Pains and Penalties and a direct attack by the State upon an unprotected class of litigants.

Nevada holds that an order *is not effective* until the district court enters it, (*Tener v. Babcock*, 97 Nev. 369, 370, 632 P.2d 1140, 1140 (1981)). "Entry" involves *the filing of a signed written order with the court clerk*. This has not happened in my case. Before the court reduces its decision to writing, signs it, and files it with the clerk, the nature of the judicial decision is impermanent, (*Canterino v. The mirage Casino-Hotel*, 118 Nev. 191, 194, 42 P.3d 808, 810 (2002)).

Therefore, absent a written and filed stamped order, the court remains free to reconsider the decision and issue *a different* written judgment. *Rust v. Clark*

Cty. School Dist., 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987). Consequently, a [c]ourt's oral pronouncement from the bench, the clerk's minute order, and even an unfiled written order **are ineffective for any purpose.**" (*Id.* at 698, 747 P.2d at 1382 (emphasis added). This includes triggering of the filing of a Remittitur by the District Court CEO/Clerk's Office/Administration. Consequently, this Court has stated that "[a]n oral pronouncement of judgment is not valid for any purpose; therefore, **only a written judgment has any effect**, and **only a written judgment may be appealed.**" (*Id.* at 689, 747 P.2d at 1382).

Since there is no written, signed and filed order in my conviction below or, for that matter in this appeal case, there can be no Remittitur. The Court Administration/Clerk/CEO of the Court, Steven Grierson, having filed the Remittitur without a signed and written file stamped order has effectively taken jurisdiction away from the court to even execute a file stamped Order at this point. Further, the District Court cannot now hear my Motion for Reconsideration. This means that the Petitioner's procedural right to file a Motion for Reconsideration on an order that should have been forth coming, has been effectively negated by the Clerk of the Court.

The United States Supreme Court has stated in *Carey v. Piphus*, 435 U.S. 247, 266-67, 98 S.Ct. 1042, 1054, 55 L.Ed.2d 252 (1978),

“That the right to procedural due process is ‘**absolute**,’ and ‘the law recognizes the importance to organized society that those right be *scrupulously* observed.’ Thus, **the ‘absolute’ right to adequate procedures stands independent from the ultimate outcome of the hearing.** See *Carey*, 435 U.S. at 266-67, 98 S.Ct. 1054. (Emphasis added).

As such, the Clerk/CEO of the Court, Steven B. Grierson, has illegally and/or improperly issued the Remittitur in this case. As the Remittitur has been issued improperly it has also negated a right which the Petitioner has after a written and signed order has been filed with the clerk. That right emanates from the simple fact that others, who are similarly situated,³ are allowed to file Motions for Reconsideration. The Clerk’s malfeasance and misfeasance, in the premature filing of the Remittitur, has also placed the District Court in a position of currently having no jurisdiction to file an actual written and signed order at this juncture.

Currently, because of the premature and improper issuance of the Remittitur, the Henderson Municipal Court is positioned to attempt to exercise jurisdiction over the Petitioner’s case and will set it for a status check so that the fine can be forfeited. The Petitioner has only just received his Remittitur, (**Exhibit F**) and a Justice Court Order, (**Exhibit G**), both of which are improper and void on their face and is expecting to receive some kind of notice from the

³ (See Misdemeanor appeal cases: Case cases #: C-14-299352-A; C- 14-299765-A and C-14-300069-A).

Henderson Court shortly.

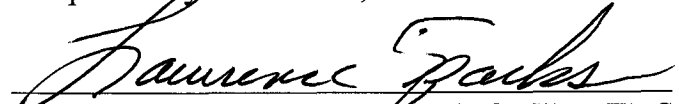
It is the Petitioner's position that he has been illegally and improperly subjected to a Bill of Pains and Penalties because there are those who are similarly situated that are clearly not being subjected to the procedural deficiencies of these courts. These actions violate his procedural due process rights. Other cases and appellants similarly situated receive written, signed and a filed orders as required in order for the Clerk to lawfully perform his required duties and functions. Further, the Court's conduct prevents the Petitioner from enjoying the same rights, *e.g.*, the right to file a motion for reconsideration, which others enjoy under the Honorable Rob Bare, J.'s, watch. Whereas, the Petitioner, a *pro se* litigant has not. This is intentional and intended to have a chilling effect upon the exercise of *Pro Se* litigants to exercise their right to appeal their convictions below.

This entire case is nothing short of incompetence, hypocrisy and anarchy - all constituting a process foreign to American jurisprudence. Judge Bare, Judge Stevens, the District Court Clerk and the Henderson Court Clerk all need to wrap their heads around their oath of office. For now, they are all in violation of same.

WHEREFORE, the Petitioner prays that this Honorable Court review the facts and law as set forth herein and grant the relief that the Court deems appropriate.

DATE: October 27, 2015

Respectfully submitted,

A handwritten signature in cursive script, reading "Lawrence Sparks". The signature is written in black ink and is positioned above a horizontal line.

LAWRENCE SPARKS, IN PROPER PERSON

CERTIFICATE OF SERVICE

I, the undersigned, hereby acknowledge that on the day of October 10/27/2015 2015, that I personally, Deposited the above and foregoing PETITIONER FOR WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE WRIT OF CERTIORARI, in a postage prepaid envelope, with delivery confirmation, in the United States Mail and addressed as follows:

Steven Grierson, Cleric/CEO of the Court
Eight Judicial District Court
200 S. Third Street
Las Vegas, Nevada 89155

The Henderson Municipal Court
The Honorable Mark J. Stevens, J.
243 Water Street, 3rd Floor
Henderson, Nevada 89015

The Henderson Municipal Court Clerk
243 Water Street
Henderson, Nevada 89105

The Honorable, Rob Bare, J.
8th Judicial District Court, Dept. 32
200 Lewis Avenue, 3rd Floor, 3C
Las Vegas, Nevada 89155

Their last known address(es).



Manmeet Kaur
3001 W. Warm Springs Rd
Henderson, NV 89014
(702) 577-6922

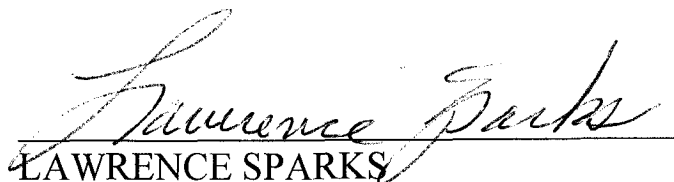
VERIFICATION

STATE OF NEVADA)
) : ss
COUNTY OF CLARK)

I, LAWRENCE SPARKS, under penalties of perjury, being first duly sworn, deposes and says:

I am the Petitioner in the above entitled action; that I have read the foregoing Petition for Writ of Prohibition or, in the alternative, Petition for Writ of Mandamus or, in the alternative, Writ of Certiorari and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true.

DATED this day of October 27th, 2015


LAWRENCE SPARKS

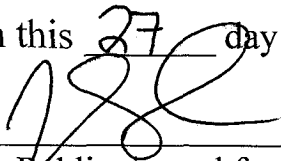
WRITTEN ACKNOWLEDGMENT

STATE OF NEVADA)
)
COUNTY OF CLARK) SS

The undersigned being first duly affirmed, states that he is the
Petitioner in the above Writ of Prohibition or, in the alternative, for Writ of
Mandamus or, in the alternative, Petition for Writ of Certiorari, has read the
above and foregoing Petition and knows the contents thereof, and declares
the same to be true of his own knowledge, except for those matters therein
stated on information and belief, and, as to those matters he believes them to
be true and accurate.

SUBSCRIBED and AFFIRMED to before

Me on this 27 day of October, 2015.



Notary Public, in and for said County and State.

