

TRACY W. VICKERS #1143756

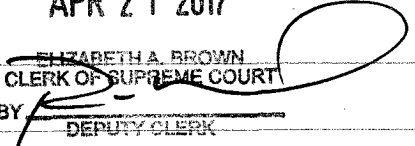
1200 PRISON RD.

LOVELOCK, NV 89419

PRO-PER

FILED

APR 21 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

NEVADA SUPREME COURT

TRACY W. VICKERS #1143756

V.

S. CT 72352

JAMES DZURENDA, et al

D. CT 16EW 001391B

APPELLANTS OPENING BRIEF (NRAP 30)

(CASE STATEMENT)

ON (2-7-17) THE FIRST DISTRICT COURT GAVE NOTICE; THAT APPELLANTS HABEAS FOR "GOOD TIME CREDIT CALCULATION WAS DISMISSED.

THEREAFTER (2-8-17) A TIMELY NOTICE OF APPEAL WAS FILED; AS WELL AS A DESIGNATION OF RECORD ON APPEAL (NRAP 10 b) WITH THE DISTRICT COURT. ACCORDINGLY ON (2-13-17) THIS COURT FILED APPELLANTS (N.O.A), AS SUCH THIS PRO-PER INFORMAL

BRIEF IS ALSO TIMELY AND IS TO BE RECOGNIZED UPON MERIT AND NOT ITS FORMAT PURSUANT TO (NRAP 32)

DOE TO THE DISTRICT COURT DISMISSING

RECEIVED

APR 20 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

TRACY W. VICKERS[#] 1143756

RE: S. CT. 72352

ALL OF APPELLANTS GROUNDS EACH WILL NOW BE
ADDRESSED RESPECTIVELY.

(POINTS - AUTHORITIES)

I. PRESENTENCE JAIL TIME CREDITS

(A.) APPELLANT CONCEDES THAT PURSUANT TO (NRS 34.738)
THE FIRST DISTRICT COURT DID NOT HAVE JURISDICTION
OVER THIS CLAIM. NONETHELESS APPELLANT WISHES TO
PRESERVE HIS RIGHT TO FILE ANEW A HABEAS; AS
PERTAINS THIS ISSUE, WITH THE EIGHTH DISTRICT
COURT.

II. CREDIT FOR TIME SERVED ON PROBATION

(A.) UPON THIS GROUND BOTH THE RESPONDENTS AND
THE DISTRICT COURT CONTEND THAT (WEBSTER V.
STATE 109 NEV 1084, 1085) CONTROLS AND THUS
NO CREDITS SHOULD BE AWARDED. HOWEVER,
NEITHER THE DISTRICT COURT NOR RESPONDENTS
ADDRESSED THE SUCCINCTLY PLED ARGUMENTS MADE
UPON THE (HABEAS, AT pg 2). WHEREIN, APPELLANT

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POSITS THAT (NRS 209.4465 (1)(a)(c)) MANDATORILY
ALLOWS FOR A CREDIT DEDUCTION, WHENEVER AN OFFENDER
IS UNDER THE AUTHORITY OF THE "DIVISION OF PAROLE
OR PROBATION." MORESO, IT SHOULD BE NOTED (AB 610)
AMMENDED (NRS 209.4465) IN (2007); AS SUCH
(WEBSTER, SUPRA) NO LONGER CONTROLS.

(B.) LASTLY, SINCE NO OBJECTION WAS MADE IN THE
FIRST INSTANCE UPON THE DISTRICT COURT APPELLANT
ATTESTS THAT A CONFESSION OF ERROR HAS BEEN MADE
BY THE STATE (NRAP 31).

III. LOSS OF WORK CREDITS DUE TO NO JOBS BEING AVAILABLE

(A.) THE DISTRICT COURT AND RESPONDENTS BOTH
READILY CONTEND THAT THIS ISSUE DOES NOT FALL
UNDER (NRS. 34.720 OR 34.724) DUE TO APPELLANTS
CONTENTIONS ALLEGEDLY NOT SETTING FORTH A CLAIM
FOR A LOSS OF CREDITS. HOWEVER NOTHING COULD BE FURTHER
FROM THE TRUTH. AS (NDOC) NOT HAVING JOBS FOR ALL
INMATES; DOES AFFECT A LOSS OF CREDITS AND FURTHERMORE
FLIES IN THE FACE OF THE LEGISLATIVE INTENT FOR
ALLOWING WORK CREDITS. WHICH IS TO PROMOTE EARLY
~~REAL~~ RELEASES AND GIVE INMATES AN INCENTIVE TO
REMAIN TROUBLE FREE

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(B.) LASTLY TO THE EXTENT THIS ISSUE IS DEEMED BETTER RAISED UPON (1983) REVIEW. APPELLANT HEREIN PRESERVES HIS RIGHT TO DO SO.

IV. "VONSEYDEWITZ" IS PERSUASIVE UPON THIS MATTER THUS ESTABLISHING EQUAL PROTECTION IMPLICATIONS

(A.) BOTH THE DISTRICT COURT AND RESPONDANTS IMPLY THAT (VONSEYDEWITZ, S. CT. 66159, 2015) IS NOT PERSUASIVE BECAUSE ITS RULING WAS UNPUBLISHED. HOWEVER, THAT CONTENTION IS EASILY BELIED BY THE PLAIN LANGUAGE OF (NRAP 36 (c)(3): WHICH SO HOLDS THAT ON UNPUBLISHED DECISION, "MAYBE CITED FOR PERSUASIVE VALUE; PROVIDED THAT THE PARTY USING SUCH ~~SITES~~ THE ELECTRONIC DATABASE AS WELL AS THE DOCKET NUMBER AND FILING DATE." ALL OF THESE REQUIREMENTS WERE MET. AS SUCH (VONSEYDEWITZ, SUPRA) IS TO BE DEEMED AS PERSUASIVE.

(B.) SECONDLY (VONSEYDEWITZ, SUPRA) DID NOT STATE UNEQUIVOCALLY THAT ITS HOLDING ONLY APPLIED IN THAT INSTANT MATTER. AS SUCH THIS COURT CAN AND SHOULD ACCORD THE SAME DEFERENCE. THEREIN EQUAL PROTECTION - DUE PROCESS DOES APPLY

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(C) LASTLY, THE DISTRICT COURT WAS ALSO MISTAKEN WHEN IT OVERLOOKED THIS COURTS RULING, AS PERTAINS THE EXCEPTION FOUND UPON (NRS 209.4465 (7)). WHEREIN THIS MATTER WAS BRIEFED BEFORE THIS COURT AND FOUND TO HAVE NO MERIT OR BEARING. ACCORDINGLY (VONSEY DEWITZ, SUPRA) CAN STILL BE DEEMED AS CONTROLLING

V. THE DISTRICT COURT ABUSED ITS DISCRETION BY NOT APPOINTING COUNSEL

(A.) ON (8-19-16) APPELLANT SOUGHT COUNSEL PURSUANT TO (NRS 34.750 (1)). YET DESPITE HAVING MET ALL THE CRITERIA AS SET FORTH THEREIN; APPELLANT WAS NONETHELESS DENIED. AS SUCH APPELLANT HEREIN SEEKS A "DE-NOVO" REVIEW OF SAID DENIAL. JUSTIFICATION FOR SUCH EXISTS NOT ONLY DUE TO APPELLANTS INDIGENCY STATUS, COMPLEXITY OF THE ISSUES, LIMITED KNOWLEDGE OF LAW; BUT ALSO BECAUSE OF THE AMBIGUITY OF THE CONTROLLING STATUTE UPON THIS MATTER, WHICH IN TURN CREATES THE NEED FOR IN DEPTH DISCOVERY TO DETERMINE LEGISLATIVE INTENT.

(CONCLUSION)

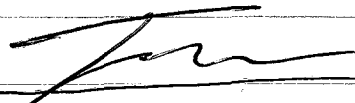
APPELLANT IN HIS LIMITED CAPACITY, WITH INMATE

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ASSISTANCE HAS MADE EVERY ATTEMPT TO SET FORTH
A COGENT OPENING BRIEF. NONETHELESS SHOULD THERE
BE ANY SHORT COMINGS. IT IS HEREBY MOVED THAT THIS
COURT LIBERALLY CONSTRUVE SUCH AS THE LAW ALLOWS
FOR PRO-PER FILINGS; OR APPOINT COUNSEL TO CORRECT
SAID DEFECTS. LASTLY APPELLANT PRAYS THAT THE HABEAS
BE GRANTED IN ITS ENTIRETY - RESPECTFULLY -

DATED: 18 APRIL 17

X 
NRS 208.165

* PURSUANT TO (AR 722) THIS DOCUMENT WAS
PREPARED BY ANOTHER INMATE (ANTHONY THOMAS # 91694)

X  91694
X 

DATED: 18 APRIL 17