

Electronically Filed
Jun 20 2017 08:36 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

ADAM PAUL LAXALT
Attorney General
CAMERON P. VANDENBERG (Bar No. 4356)
Chief Deputy Attorney General
MICHELLE DI SILVESTRO ALANIS (Bar No. 10024)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas NV 89101-1068
(775) 687-2132 (phone)
(702) 486-3773 (fax)
cvandenberg@ag.nv.gov
malanis@ag.nv.gov

*Attorneys for Petitioner
State of Nevada ex rel. Department of Corrections*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA EX REL.
DEPARTMENT OF CORRECTIONS,

Petitioner,

vs.

BRIAN LUDWICK, an individual; THE
STATE OF NEVADA ex rel., ITS
DEPARTMENT OF ADMINISTRATION,
PERSONNEL COMMISSION, HEARING
OFFICER,

Respondents.

Case No: A-16-741032-J
Dept. No: XXVII

NOTICE OF APPEAL

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Dated: June 8, 2017.

By: /s/ Cameron P. Vandenberg
CAMERON P. VANDENBERG (Bar No. 4356)
Chief Deputy Attorney General
MICHELLE DI SILVESTRI ALANIS (Bar No.
10024)
Deputy Attorney General

AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned hereby affirms that the foregoing document does not contain the social security number of any person.

Dated: June 8, 2017.

ADAM PAUL LAXALT
Attorney General

By: /s/ Cameron P. Vandenberg
CAMERON P. VANDENBERG (Bar No. 4356)
Chief Deputy Attorney General
MICHELLE DI SILVESTRI ALANIS (Bar No.
10024)
Deputy Attorney General

1 **CERTIFICATE OF SERVICE**

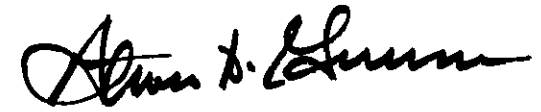
2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that
3 on June 8, 2017, I filed the foregoing **NOTICE OF APPEAL** via this Court's electronic filing system.
4 Parties that are registered with this Court's EFS will be served electronically.

5
6 Daniel Marks, Esq.
Adam Levine, Esq.
7 Law Offices of Daniel Marks
610 S. Ninth Street
8 Las Vegas, Nevada 89101
9

10
11
12 /s/ Anela Kaheaku
Anela Kaheaku, an employee of the office
13 of the Nevada Attorney General
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EXHIBIT A

EXHIBIT A



CLERK OF THE COURT

1 NEO
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
3 ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
4 610 South Ninth Street
Las Vegas, Nevada 89101
5 (702) 386-0536; FAX (702) 386-6812
Attorneys for Respondent Brian Ludwick
6
7

DISTRICT COURT

CLARK COUNTY, NEVADA

10 STATE OF NEVADA ex rel, ITS
DEPARTMENT OF CORRECTIONS

Case No.: A-16-741032-J
Dept. No.: XXVII

11 Petitioner,
12

13 v.

14 BRIAN LUDWICK, an individual; THE
STATE OF NEVADA ex rel; ITS
15 DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER,
16

Respondents.
17 _____/

18 **NOTICE OF ENTRY OF ORDER DENYING PETITION FOR JUDICIAL REVIEW**

19 TO: STATE OF NEVADA DEPARTMENT OF CORRECTIONS, Petitioner,

20 TO: JENNIFER K. HOSTETLER, Deputy Attorney General, Attorney for Petitioner;

21 TO: MICHELLE DI SILVESTRO ALANIs, Deputy Attorney General, Attorney for Petitioner;

27 ///

22 ///

1 PLEASE TAKE NOTICE that the Order Denying Petition for Judicial Review was entered in
2 the above-entitled action on the 8th day of May, 2017 a copy of which is attached hereto.

3 DATED this 10th day of May, 2017.

4 LAW OFFICE OF DANIEL MARKS

5
6 /s/ Adam Levine, Esq.
7 DANIEL MARKS, ESQ.
8 Nevada State Bar No. 002003
9 ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Respondent Brian Ludwick

10 **CERTIFICATE OF SERVICE BY ELECTRONIC MEANS**

11 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 10th
12 day of May, 2017, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted
13 a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND
14 ORDER TO EXTEND THE FILING OF THE ANSWERING BRIEF AND CONTINUE HEARING
15 (Second Request) by way of Notice of Electronic Filing provided by the court mandated E-file & Serve
16 system, to the e-mail address on file for:

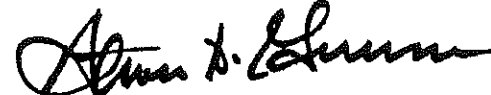
17 Jennifer K. Hostetler, Chief Deputy Attorney General
18 Michelle Di Silvestro Alanis, Deputy Attorney General
19 OFFICE OF THE ATTORNEY GENERAL
Attorneys for Petitioner
E-mail: jhostetler@ag.nv.gov
malanis@ag.nv.gov

20
21 /s/ Joi E. Harper
22 An employee of the
23 LAW OFFICE OF DANIEL MARKS

ORIGINAL

Electronically Filed
05/09/2017 02:13:58 PM

1 ORDR
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 ADAM LEVINE, ESQ.
6 Nevada State Bar No. 004673
7 610 South Ninth Street
8 Las Vegas, Nevada 89101
9 (702) 386-0536: FAX (702) 386-6812
10 *Attorneys for Respondent Brian Ludwick*


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

11 STATE OF NEVADA ex rel, ITS
12 DEPARTMENT OF CORRECTIONS

Case No.: A-16-741032-J
Dept. No.: XXVII

13 Petitioner,

14 v.

15 BRIAN LUDWICK, an individual; THE
16 STATE OF NEVADA ex rel; ITS
17 DEPARTMENT OF ADMINISTRATION
18 PERSONNEL COMMISSION, HEARING
19 OFFICER,

20 Respondents.
21 _____/

ORDER DENYING PETITION FOR JUDICIAL REVIEW

22 This matter having come before the Court on April 19, 2017, with Petitioner Nevada
23 Department of Corrections ("NDOC") being represented by Deputy Attorney General Michelle Di
24 Silvestro Alanis, and Respondent Brian Ludwick represented by Adam Levine, Esq. of the Law Office
25 of Daniel Marks; and the Court having considered the record of the administrative agency proceedings
26 and the briefs of the parties, and having heard the arguments of counsel:

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that NDOC's Petition for Judicial
2 Review is denied for the following reasons:

- 3 1. The Hearing Officer's Decision was reasonable based upon the facts.
4 2. There was no clear error in the application of the law by the Hearing Officer.
5 3. The Hearing Officer did not exceed her authority.
6 4. The Hearing Officer's Decision was not arbitrary or capricious.
7 5. The evidentiary standard used by the Hearing Officer was sufficient to justify the result.

8 DATED this 8 day of May, 2017.

9
10 Nancy L Alf
DISTRICT COURT JUDGE DC

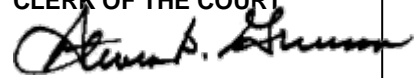
11
12 APPROVED AS TO FORM AND CONTENT:

13 OFFICE OF THE NEVADA ATTORNEY GENERAL

14 By: Michelle Di Silvestro Alanis
15 Jennifer K. Hostetler, Chief Deputy Attorney General
16 Michelle Di Silvestro Alanis, Deputy Attorney General
17 Bureau of Business & State Services - Personnel Division
555 E. Washington Avenue, Ste. 3900
Las Vegas, NV 89101

18 Respectfully submitted by:
19 LAW OFFICE OF DANIEL MARKS

20 [Signature]
21 By: DANIEL MARKS, ESQ.
27 Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
22 Nevada State Bar No. 004673
610 South Ninth Street
23 Las Vegas, Nevada 89101
Attorneys for Respondent Brian Ludwick



ADAM PAUL LAXALT
Attorney General
CAMERON P. VANDENBERG (Bar No. 4356)
Chief Deputy Attorney General
MICHELLE DI SILVESTRO ALANIS (Bar No. 10024)
Deputy Attorney General
State of Nevada
Office of the Attorney General
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Las Vegas NV 89101-1068
(775) 687-2132 (phone)
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malanis@ag.nv.gov

*Attorneys for Petitioner
State of Nevada ex rel. Department of Corrections*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA *ex rel.* its
DEPARTMENT OF CORRECTIONS,

Petitioner,

vs.

BRIAN LUDWICK, an individual; THE
STATE OF NEVADA *ex rel.*, ITS
DEPARTMENT OF ADMINISTRATION,
PERSONNEL COMMISSION, HEARING
OFFICER,

Respondents.

Case No: A-16-741032-J
Dept. No: XXVII

CASE APPEAL STATEMENT

Pursuant to Nev. R. App. P. 3(f), the State of Nevada, Department of Corrections, Petitioner
above named, hereby files its Case Appeal Statement:

1. Name of appellant filing this Case Appeal Statement:

State of Nevada, Department of Corrections

///

1 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

2 Hon. Nancy L. Allf

3 **3. Identify each appellant and the name and address of counsel for each appellant:**

4 Appellant: State of Nevada, Department of Corrections.

5 Counsel for Appellant: Michelle Di Silvestri Alanis, Deputy Attorney General, Office of the
6 Attorney General, 555 E. Washington Ave., Suite 3900, Las Vegas, Nevada 89101-1068, Tel: (702)
7 486-3268, Fax: (702) 486-3768, and Cameron P. Vandenberg, Chief Deputy Attorney General, 5420
8 Kietzke Lane, Suite 202, Reno, Nevada 89511, Tel: (775) 687-2132, Fax: (775) 688-1822.

9 **4. Identify each respondent and the name and address of appellate counsel, if known, for**
10 **each respondent (if the name of a respondent's appellate counsel is unknown, indicate as**
11 **much and provide the name and address of that respondent's trial counsel):**

11 Respondent: Brian Ludwick

12 Counsel for Respondent in the district court proceeding: Adam Levine, Esq., Law Office of
13 Daniel Marks, 610 South Ninth Street, Las Vegas, Nevada 89101, Tel: (702) 386-0536, Fax: (702) 386-
14 6812.

15 Counsel for Appellant is without information as to whether or not Respondent has or will retain
16 the same counsel for the appellate proceeding.

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

20 N/A.

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

23 Appellant was represented by retained counsel in the district court.

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

25 Appellant is represented by retained counsel on appeal.

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

28 No.

1 **9. Indicate the date the proceedings commenced in the District Court (e.g., date complaint,**
2 **indictment, information or petition was filed):**

3 On August 1, 2016, Petitioner State of Nevada, Department of Corrections, commenced this
4 action by filing a Petition for Judicial Review.

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

8 Effective March 31, 2016, Respondent Brian Ludwick, a correctional officer assigned to the
9 Florence McClure Women's Correctional Center, was dismissed for abandoning his post without prior
10 authorization in violation of the Department of Corrections' Code of Ethics and Prohibitions and
11 Penalties (Administrative Regulation or "AR" 339) and NAC 284.650(1), (3) and (7).

12 Ludwick appealed his termination to a State Administrative Hearing Officer in accordance with
13 NRS 284.390. After conducting a hearing and considering evidence, the Hearing Officer found that
14 Ludwick knew or should have known that he had a duty to obtain permission from a supervisor prior to
15 leaving his post and that Ludwick did in fact leave his post on April 1, 2015 without obtaining prior
16 authorization. The Hearing Officer further found that such conduct constitutes inexcusable neglect of
17 duty and violated a "very important safety and security policy." Despite these determinations, on June
18 27, 2016, the Hearing Officer improperly reversed Ludwick's termination based on her determination
19 that AR 339 had not been approved by the Nevada Personnel Commission and therefore was not given
20 any weight with respect to the penalty associated with the proscribed conduct. The Hearing Officer
21 decided, without giving the Department of Corrections' decision any *Dredge* deference, that dismissal
22 was too harsh and recommended a suspension not to exceed thirty (30) days.

23 On August 1, 2016, the Nevada Department of Corrections filed a Petition for Judicial Review
24 of the Hearing Officer's Findings of Fact, Conclusions of Law and Decision. Following full briefing
25 and oral argument, the district court denied the Petition for Judicial Review on May 10, 2017.

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

 This case has not been the subject of an appeal to or original writ proceeding in the Nevada
 Supreme Court.

 ///

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

2 This appeal does not involve child custody or visitation.

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

4 This appeal is unlikely to involve the possibility of settlement.

5 Dated: June 8, 2017.

6 ADAM PAUL LAXALT
7 Attorney General

8 By: /s/ Cameron P. Vandenberg
9 CAMERON P. VANDENBERG (Bar No. 4356)
10 Chief Deputy Attorney General
11 MICHELLE DI SILVESTRI ALANIS (Bar No.
12 10024)
13 Deputy Attorney General
14
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AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the foregoing document does not contain the social security number of any person.

Dated: June 8, 2017.

ADAM PAUL LAXALT
Attorney General

By: /s/ Cameron P. Vandenberg
CAMERON P. VANDENBERG (Bar No. 4356)
Chief Deputy Attorney General
MICHELLE DI SILVESTRI ALANIS (Bar No.
10024)
Deputy Attorney General

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that
3 on June 8, 2017, I filed the foregoing **CASE APPEAL STATEMENT** via this Court's electronic filing
4 system. Parties that are registered with this Court's EFS will be served electronically.

5
6 Daniel Marks, Esq.
Adam Levine, Esq.
7 Law Offices of Daniel Marks
610 S. Ninth Street
8 Las Vegas, Nevada 89101
9

10
11
12 /s/ Anela Kaheaku
Anela Kaheaku, an employee of the office
13 of the Nevada Attorney General
14
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DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-741032-J

Nevada State Department of Corrections, Petitioner(s)
vs.
Brian Ludwick, Respondent(s)

§
§
§
§
§

Location: **Department 27**
Judicial Officer: **Allf, Nancy**
Filed on: **08/01/2016**
Cross-Reference Case Number: **A741032**

CASE INFORMATION

Case Type: **Other Judicial Review/Appeal**
Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-16-741032-J
Court Department 27
Date Assigned 08/01/2016
Judicial Officer Allf, Nancy

PARTY INFORMATION

Petitioner **Nevada State Department of Corrections**

Lead Attorneys

Hostetler, Jennifer K
Retained
702-949-8200(W)

Respondent **Ludwick, Brian**

Marks, Daniel
Retained
702-386-0536(W)


Nevada State Department of Administration Personnel Commission

DATE


EVENTS & ORDERS OF THE COURT

INDEX


08/01/2016

 Petition for Judicial Review
Filed by: Petitioner Nevada State Department of Corrections
Petition for Judicial Review


08/02/2016

 Amended Certificate of Service
Party: Petitioner Nevada State Department of Corrections
Amended Certificate of Service


08/05/2016

 Motion to Stay
Filed By: Petitioner Nevada State Department of Corrections
Motion for Stay


08/05/2016

 Ex Parte Motion
Filed By: Petitioner Nevada State Department of Corrections
Ex Parte Motion for an Order Shortening Time in which to Hear Petitioner's Motion for Stay

08/10/2016

 Order Shortening Time
Filed By: Petitioner Nevada State Department of Corrections
Order Shortening Time














08/12/2016

 Notice of Entry of Order
Filed By: Petitioner Nevada State Department of Corrections
Notice of Entry of Order












DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-741032-J

08/16/2016	 Receipt of Copy Filed by: Petitioner Nevada State Department of Corrections <i>Receipt of Copy</i>
08/17/2016	 Notice of Intent Filed By: Respondent Ludwick, Brian <i>Notice of Intent to Participate</i>
08/18/2016	 Opposition to Motion Filed By: Respondent Ludwick, Brian <i>Respondent Brian Ludwick's Opposition to Petitioner's Motion to Stay Pending Appeal on Order Shortening Time</i>
08/19/2016	 Certificate of Service Filed by: Petitioner Nevada State Department of Corrections <i>Certificate of Service</i>
08/24/2016	 Motion to Stay (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Respondants' Motion to Stay</i>
08/26/2016	 Transmittal Party: Respondent Nevada State Department of Administration Personnel Commission <i>Transmittal of Record on Appeal</i>
08/26/2016	 Transmittal of Record on Appeal Party: Petitioner Nevada State Department of Corrections <i>Record on Appeal in Accordance with the Nevada Administrative Procedure Act</i>
08/26/2016	 Affidavit <i>Affidavit & Certification</i>
08/26/2016	 Certificate of Mailing Filed By: Petitioner Nevada State Department of Corrections <i>Certification of Transmittal</i>
09/08/2016	 Supplemental Filed by: Petitioner Nevada State Department of Corrections <i>Supplemental Transmittal of Record on Appeal</i>
09/08/2016	 Affidavit Filed By: Petitioner Nevada State Department of Corrections <i>Affidavit & Certification</i>
09/08/2016	 Certificate of Mailing Filed By: Petitioner Nevada State Department of Corrections <i>Certification of Transmittal</i>
09/20/2016	 Notice of Attorney Lien Filed By: Respondent Ludwick, Brian <i>Notice of Attorney's Lien</i>
09/23/2016	 Motion to Adjudicate Attorney's Lien




DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-741032-J

	Filed by: Respondent Ludwick, Brian <i>Motion for Adjudication of Attorney's Lien</i>
09/23/2016	 Notice of Service Party: Respondent Ludwick, Brian <i>Notice of Service of Notice of Attorney Lien by Certified and Return Receipt Requested Mail</i>
09/26/2016	 Ex Parte Application Party: Respondent Ludwick, Brian <i>Application for Order Shortening Time</i>
09/27/2016	 Order Denying Filed By: Respondent Ludwick, Brian <i>Order Denying Stay</i>
09/28/2016	 Order Shortening Time Filed By: Respondent Ludwick, Brian <i>Order Shortening Time</i>
09/28/2016	 Stipulation and Order Filed by: Petitioner Nevada State Department of Corrections <i>Stipulation and Order to Extend Briefing</i>
09/28/2016	 Notice of Entry of Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Order Denying Stay</i>
09/29/2016	 Notice of Entry of Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Order Shortening Time</i>
09/29/2016	 Notice of Entry of Order Filed By: Petitioner Nevada State Department of Corrections <i>Notice of Entry of Order</i>
10/06/2016	 Response Filed by: Petitioner Nevada State Department of Corrections <i>Petitioner's Response to Motion for Adjudication of Attorney's Lien</i>
10/10/2016	 Reply to Opposition Filed by: Respondent Ludwick, Brian <i>Reply to Response of Nevada Department of Corrections to Motion to Adjudicate Attorney Lien</i>
10/13/2016	 Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Brian Ludwick's Motion for Adjudication of Attorney's Lien</i>
10/26/2016	 Order Filed By: Respondent Ludwick, Brian <i>Order Adjudicating Attorney's Lien</i>
10/27/2016	 Notice of Entry of Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Order Adjudicating Attorney Lien</i>

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-741032-J

11/07/2016	 Notice of Entry of Order Filed By: Petitioner Nevada State Department of Corrections <i>Notice of Entry of Order</i>
11/07/2016	 Stipulation and Order Filed by: Petitioner Nevada State Department of Corrections <i>Stipulation and Order to Extend Briefing</i>
12/06/2016	 Petitioners Opening Brief Filed by: Petitioner Nevada State Department of Corrections <i>Petitioner's Opening Brief</i>
12/28/2016	 Order <i>Order Setting On Petition For Judicial Review</i>
12/29/2016	 Stipulation and Order Filed by: Respondent Ludwick, Brian <i>Stipulation and Order To Extend The Filing Of The Answering Brief</i>
12/30/2016	 Notice of Entry of Stipulation and Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Stipulation and Order to Extend the Filling of the Answering Brief.</i>
01/24/2017	CANCELED Status Check (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Status Check: Oral Argument Request</i>
01/31/2017	 Stipulation and Order Filed by: Respondent Ludwick, Brian <i>Stipulation and Order to Extend the Filing of the Answering Brief and Continue Hearing (Second Request)</i>
02/01/2017	 Notice of Entry of Stipulation and Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Stipulations and Order to Extend the Filing of the Answering Brief and Continue Hearing (Second Request)</i>
03/03/2017	 Respondent's Answering Brief Filed by: Respondent Ludwick, Brian <i>Respondent Brian Ludwick's Answering Brief</i>
04/13/2017	 Petitioner's Reply Brief Filed by: Petitioner Nevada State Department of Corrections <i>Petitioner's Reply Brief</i>
04/19/2017	 Petition for Judicial Review (9:00 AM) (Judicial Officer: Allf, Nancy) <i>PETITION FOR JUDICIAL REVIEW</i>
05/09/2017	 Order Denying Judicial Review of Administrative Decision Filed by: Respondent Ludwick, Brian <i>Order Denying Petition for Judicial Review</i>
05/09/2017	Order Denying Judicial Review (Judicial Officer: Allf, Nancy) Debtors: Nevada State Department of Corrections (Petitioner)

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-741032-J

	Creditors: Brian Ludwick (Respondent), Nevada State Department of Administration Personnel Commission (Respondent) Judgment: 05/09/2017, Docketed: 05/16/2017
05/10/2017	 Notice of Entry of Order Filed By: Respondent Ludwick, Brian <i>Notice of Entry of Order Denying Petition for Judicial Review</i>
06/08/2017	 Case Appeal Statement Filed By: Petitioner Nevada State Department of Corrections <i>Case Appeal Statement</i>
06/08/2017	 Notice of Appeal Filed By: Petitioner Nevada State Department of Corrections <i>Notice of Appeal</i>

DATE	FINANCIAL INFORMATION	
	Respondent Nevada State Department of Administration Personnel Commission	
	Total Charges	24.00
	Total Payments and Credits	24.00
	Balance Due as of 6/13/2017	0.00

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

XXVII

Case No. _____
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): State of Nevada ex rel. Department of Corrections,	Defendant(s) (name/address/phone): Brian Ludwick; The State of Nevada ex rel., its Department of Administration Personnel Commission, Hearing Officer
Attorney (name/address/phone): Jennifer K. Hostetler and Michelle Di Silvestro Alanis Nevada Attorney General, 555 E. Washington Ave. #3900 Las Vegas, NV 89101 702-486-3420	Attorney (name/address/phone): Adam Levine 610 S. Ninth Street Las Vegas, NV 89101 702-386-0536


II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input checked="" type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

August 1, 2016

Date

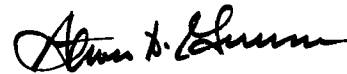

 Signature of initiating party or representative

See other side for family-related case filings.

ORIGINAL

Electronically Filed
05/09/2017 02:13:58 PM

1 ORDR
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 ADAM LEVINE, ESQ.
6 Nevada State Bar No. 004673
7 610 South Ninth Street
8 Las Vegas, Nevada 89101
9 (702) 386-0536: FAX (702) 386-6812
10 *Attorneys for Respondent Brian Ludwick*



CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

10 STATE OF NEVADA ex rel, ITS
11 DEPARTMENT OF CORRECTIONS

Case No.: A-16-741032-J
Dept. No.: XXVII

12 Petitioner,

13 v.

14 BRIAN LUDWICK, an individual; THE
15 STATE OF NEVADA ex rel; ITS
16 DEPARTMENT OF ADMINISTRATION
17 PERSONNEL COMMISSION, HEARING
18 OFFICER,

19 Respondents.

20 **ORDER DENYING PETITION FOR JUDICIAL REVIEW**

21 This matter having come before the Court on April 19, 2017, with Petitioner Nevada
22 Department of Corrections ("NDOC") being represented by Deputy Attorney General Michelle Di
23 Silvestro Alanis, and Respondent Brian Ludwick represented by Adam Levine, Esq. of the Law Office
of Daniel Marks; and the Court having considered the record of the administrative agency proceedings
and the briefs of the parties, and having heard the arguments of counsel:

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that NDOC's Petition for Judicial
2 Review is denied for the following reasons:

- 3 1. The Hearing Officer's Decision was reasonable based upon the facts.
4 2. There was no clear error in the application of the law by the Hearing Officer.
5 3. The Hearing Officer did not exceed her authority.
6 4. The Hearing Officer's Decision was not arbitrary or capricious.
7 5. The evidentiary standard used by the Hearing Officer was sufficient to justify the result.

8 DATED this 8 day of May, 2017.

9
10 Nancy L Alf
DISTRICT COURT JUDGE DC

11
12 **APPROVED AS TO FORM AND CONTENT:**

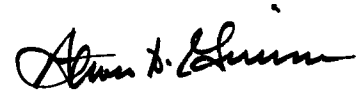
13 OFFICE OF THE NEVADA ATTORNEY GENERAL

14 By: Michelle Di Silvestro Alanis
15 Jennifer K. Hostetler, Chief Deputy Attorney General
16 Michelle Di Silvestro Alanis, Deputy Attorney General
17 Bureau of Business & State Services - Personnel Division
555 E. Washington Avenue, Ste. 3900
Las Vegas, NV 89101

18 Respectfully submitted by:

19 LAW OFFICE OF DANIEL MARKS

20
21 By: [Signature]
22 DANIEL MARKS, ESQ.
23 Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Respondent Brian Ludwick



CLERK OF THE COURT

1 NEO
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
3 ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
4 610 South Ninth Street
Las Vegas, Nevada 89101
5 (702) 386-0536; FAX (702) 386-6812
Attorneys for Respondent Brian Ludwick
6

7
DISTRICT COURT

8
CLARK COUNTY, NEVADA
9

10 STATE OF NEVADA ex rel, ITS
DEPARTMENT OF CORRECTIONS

Case No.: A-16-741032-J
Dept. No.: XXVII

11
Petitioner,
12

13
v.

14 BRIAN LUDWICK, an individual; THE
STATE OF NEVADA ex rel; ITS
DEPARTMENT OF ADMINISTRATION
15 PERSONNEL COMMISSION, HEARING
OFFICER,
16

Respondents.
17 _____ /

18 **NOTICE OF ENTRY OF ORDER DENYING PETITION FOR JUDICIAL REVIEW**

19 TO: STATE OF NEVADA DEPARTMENT OF CORRECTIONS, Petitioner,

20 TO: JENNIFER K. HOSTETLER, Deputy Attorney General, Attorney for Petitioner;

21 TO: MICHELLE DI SILVESTRO ALANIs, Deputy Attorney General, Attorney for Petitioner;

27 ///

22 ///

1 PLEASE TAKE NOTICE that the Order Denying Petition for Judicial Review was entered in
2 the above-entitled action on the 8th day of May, 2017 a copy of which is attached hereto.

3 DATED this 10th day of May, 2017.

4 LAW OFFICE OF DANIEL MARKS

5
6 /s/ Adam Levine, Esq.
7 DANIEL MARKS, ESQ.
8 Nevada State Bar No. 002003
9 ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Respondent Brian Ludwick

10 **CERTIFICATE OF SERVICE BY ELECTRONIC MEANS**

11 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 10th
12 day of May, 2017, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted
13 a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND
14 ORDER TO EXTEND THE FILING OF THE ANSWERING BRIEF AND CONTINUE HEARING
15 (Second Request) by way of Notice of Electronic Filing provided by the court mandated E-file & Serve
16 system, to the e-mail address on file for:

17 Jennifer K. Hostetler, Chief Deputy Attorney General
18 Michelle Di Silvestro Alanis, Deputy Attorney General
19 OFFICE OF THE ATTORNEY GENERAL
Attorneys for Petitioner
E-mail: jhostetler@ag.nv.gov
malanis@ag.nv.gov

20
21 /s/ Joi E. Harper
22 An employee of the
23 LAW OFFICE OF DANIEL MARKS

ORIGINAL

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1 ORDR
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 ADAM LEVINE, ESQ.
6 Nevada State Bar No. 004673
7 610 South Ninth Street
8 Las Vegas, Nevada 89101
9 (702) 386-0536; FAX (702) 386-6812
10 *Attorneys for Respondent Brian Ludwick*


CLERK OF THE COURT

11
12
13 DISTRICT COURT
14
15 CLARK COUNTY, NEVADA
16

17 STATE OF NEVADA ex rel, ITS
18 DEPARTMENT OF CORRECTIONS

Case No.: A-16-741032-J
Dept. No.: XXVII

19 Petitioner,

20 v.

21 BRIAN LUDWICK, an individual; THE
22 STATE OF NEVADA ex rel; ITS
23 DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER,

Respondents.

ORDER DENYING PETITION FOR JUDICIAL REVIEW

This matter having come before the Court on April 19, 2017, with Petitioner Nevada Department of Corrections ("NDOC") being represented by Deputy Attorney General Michelle Di Silvestro Alanis, and Respondent Brian Ludwick represented by Adam Levine, Esq. of the Law Office of Daniel Marks; and the Court having considered the record of the administrative agency proceedings and the briefs of the parties, and having heard the arguments of counsel:

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that NDOC's Petition for Judicial
2 Review is denied for the following reasons:

- 3 1. The Hearing Officer's Decision was reasonable based upon the facts.
4 2. There was no clear error in the application of the law by the Hearing Officer.
5 3. The Hearing Officer did not exceed her authority.
6 4. The Hearing Officer's Decision was not arbitrary or capricious.
7 5. The evidentiary standard used by the Hearing Officer was sufficient to justify the result.

8 DATED this 8 day of May, 2017.

9
10 Nancy L. Alf
DISTRICT COURT JUDGE DC

11
12 APPROVED AS TO FORM AND CONTENT:

13 OFFICE OF THE NEVADA ATTORNEY GENERAL

14 By: Michelle Di Silvestro Alanis
15 Jennifer K. Hostetler, Chief Deputy Attorney General
16 Michelle Di Silvestro Alanis, Deputy Attorney General
17 Bureau of Business & State Services - Personnel Division
555 E. Washington Avenue, Ste. 3900
Las Vegas, NV 89101

18 Respectfully submitted by:

19 LAW OFFICE OF DANIEL MARKS

20
21 By: [Signature]
22 DANIEL MARKS, ESQ.
23 Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Respondent Brian Ludwick

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Judicial Review/Appeal

COURT MINUTES

August 24, 2016

A-16-741032-J Nevada State Department of Corrections, Petitioner(s)
vs.
Brian Ludwick, Respondent(s)

August 24, 2016

9:30 AM

Motion to Stay

**Respondants' Motion
to Stay**

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Alanis, Michelle D.	Attorney
	Levine, Adam	Attorney
	Ludwick, Brian	Respondent

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Respondents' Motion to Stay DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Judicial Review/Appeal

COURT MINUTES

October 13, 2016

A-16-741032-J Nevada State Department of Corrections, Petitioner(s)
vs.
Brian Ludwick, Respondent(s)

October 13, 2016 9:30 AM Motion

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Alanis, Michelle D. Attorney
 Levine, Adam Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Brian Ludwick s Motion for Adjudication of Attorney s Lien GRANTED after federal withholdings but before the PERS repayment. Upon inquiry of Court if matter could be set for oral argument, Mr. Levine stated they have extended the opening brief date to November and he would request that oral arguments be set after filing of the reply. COURT ORDERED, matter SET for STATUS CHECK in chambers as to whether or not oral arguments have been requested. Mr. Levine to prepare the order and submit it to opposing counsel for approval.

1/24/2017 (CHAMBERS) STATUS CHECK: ORAL ARGUMENTS REQUEST

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Judicial Review/Appeal

COURT MINUTES

April 19, 2017

A-16-741032-J Nevada State Department of Corrections, Petitioner(s)
vs.
Brian Ludwick, Respondent(s)

April 19, 2017 9:00 AM Petition for Judicial Review

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Alanis, Michelle D. Attorney
Levine, Adam Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the petition. Court stated its findings and ORDERED, Petition for Judicial Review DENIED. Mr. Levine to prepare the order and submit it to opposing counsel for approval. Court stated Mr. Levine may incorporate the findings by reference.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PETITION FOR JUDICIAL
REVIEW; NOTICE OF ENTRY OF ORDER DENYING PETITION FOR JUDICIAL REVIEW;
DISTRICT COURT MINUTES

STATE OF NEVADA EX REL.
DEPARTMENT OF CORRECTIONS,

Plaintiff(s),

vs.

BRIAN LUDWICK; THE STATE OF
NEVADA DEPARTMENT OF
ADMINISTRATION PERSONNEL
COMMISSION,

Defendant(s),

Case No: A-16-741032-J

Dept No: XXVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 13 day of June 2017.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk