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3 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

4 Electronically Filed
5 Jan 09 2020 11:47 p.m.
6 Elizabeth A. Brown
7 Clerk of Supreme Court

8 GARY LAMAR CHAMBERS

COA No. 73446

9 Appellant,
10 vs.

D.C. No. C292987-1

11 THE STATE OF NEVADA,
12 Respondent.

13 **APPELLANT'S PETITION FOR SUPREME COURT REVIEW**
14 **PURSUANT TO N.R.A.P. 40B**

15 JEAN J. SCHWARTZER, ESQ.
16 Nevada Bar No. 11223
17 Law Office of Jean J. Schwartzer
18 10620 Southern Highlands Pkwy
19 Suite 110-473
20 Las Vegas, Nevada 89141
21 (702) 979-9941
22 Attorney for Appellant

ALEXANDER CHEN, ESQ.
Nevada Bar No. 10539
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Attorney for Respondent

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 GARY LAMAR CHAMBERS

4 Appellant,
5 vs.

6 THE STATE OF NEVADA,
7 Respondent.

No. 73446

D.C. No. C292987-1

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12 **PETITION FOR SUPREME COURT REVIEW PURSUANT TO N.R.A.P.**
13 **40(B)**

14 Rule 40(B) of the Nevada Rules of Appellate Procedure provides that a party
15 aggrieved by a decision of the Court of Appeals may file a petition for review with
16 the clerk of the Supreme Court. The petition must state the question(s) presented
17 for review and the reason(s) review is warranted. Supreme Court review is not a
18 matter of right but of judicial discretion.
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21 The following, while neither controlling nor fully measuring the Supreme
22 Court's discretion, are factors that will be considered in the exercise of that
23 discretion:
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25 (1) Whether the question presented is one of first impression of general
26 statewide significance;
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1 (2) Whether the decision of the Court of Appeals conflicts with a prior
2 decision of the Court of Appeals, the Supreme Court, or the United States
3 Supreme Court; or

4 (3) Whether the case involves fundamental issues of statewide public
5 importance

6 **QUESTION FOR REVIEW**

7
8 If the State fails to comply with the mandatory notice requirements
9 enunciated by the plain and unambiguous language of the NRS 207.010 (2009),
10 NRS 207.012 (2009), NRS 207.016 (2007) and NRS 173.095 (1995) with respect
11 to *how* notice is given (not when), does the District Court *lack jurisdiction* to
12 sentence a defendant as a habitual criminal? More specifically, when a defendant is
13 charged by way of information (not indictment) and the State seeks habitual
14 criminal treatment pursuant to NRS 207.010 (2009), NRS 207.012 (2009), NRS
15 207.016 (2007) and NRS 173.095 (1995) through a notice as opposed to an
16 amended information in violation of said statutes, does the district court lack
17 jurisdiction to sentence the defendant as a habitual criminal?
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22 **ARGUMENT**

23 **I. NEVADA SUPREME COURT REVIEW OF THE COURT OF** 24 **APPEALS DECISION IS WARRANTED**

25 In the discussion that follows, Chambers argues that the decision of the
26 Court of Appeals regarding his adjudication as a habitual criminal conflicts with
27 the combined prior decisions of the this Court regarding vesting the district court
28

1 with jurisdiction to sentence a defendant as a habitual criminal. The Court of
2 Appeals also did not analyze or even mention any of the Supreme Court of Nevada
3 case law that Chambers cited in support of his argument that the State must adhere
4 to the mandatory provisions of NRS 207.010 (2009), NRS 207.012 (2009), NRS
5 207.016 (2007) and NRS 173.095 (1995) *with respect to how notice is given* in
6 order to properly vest the district court with jurisdiction to sentence a defendant as
7 a habitual criminal.
8

9
10 Paradoxically, Chambers also raises an issue of first impression in that this
11 Court has never specifically addressed how the manner in which the State gives
12 notice to a defendant, as mandated by the version of the habitual criminal statutes
13 in effect at the time the alleged crimes were committed ¹, affects whether or not the
14 district court has jurisdiction to sentence a defendant as a habitual criminal.
15 Specifically, this Court has never addressed this jurisdictional issue. In its Order of
16 Affirmance, the Court of Appeals did not even mention jurisdiction and only
17 analyzed this issue from a timeliness of notice standpoint.
18

19
20 Finally, this issue is one of fundamental statewide importance because it
21 affects the Due Process rights and liberty interests of all defendants' who met the
22 criteria for habitual criminal treatment prior to the amendments in 2013. Walker v.
23 Deeds, 50 F.3d 670 (9th Cir. Nev. 1995) ("Nevada's law requiring a court to review
24
25

26
27 ¹ NRS 207.010 (2009), NRS 207.012 (2009), NRS 207.016 (2007) and NRS
28 173.095 (1995).

1 and make particularized findings that it is ‘just and proper’ for a defendant to be
2 adjudged a habitual offender also creates a constitutionally protected liberty
3 interest in a sentencing procedure.”).

4
5 Therefore, Chambers respectfully requests that this Court review and reverse
6 the Court of Appeals Order, vacate his sentence and issue a published decision to
7 create uniformity amongst Nevada case law and statutory interpretation.
8

9 10 **II. THE DECISION OF THE COURT OF APPEALS CONFLICTS WITH** 11 **NEVADA STATUTES AND LEGISLATIVE INTENT**

12 The Court of Appeals concluded that the 2007 version of NRS 207.016 (not
13 the 2013 version) applied to Chambers’ sentence as a habitual criminal and
14 therefore, the State simply had to provide notice of its intent to seek habitual
15 criminal treatment at some point prior to sentencing. OA 13. Chambers does not
16 take issue with the timeliness aspect of this ruling in the instant Petition. However,
17 if the 2007 version of NRS 207.016 applies, it does so in its entirety as does the
18 2009 versions of 207.012 and 207.010 and NRS 173.095 (1995). ² **AOB 39-44.**
19

20
21 NRS 207.016 (2007) does not allow the State to simply give notice to a
22 defendant that it intends to seek habitual criminal treatment where the defendant
23

24 ² **It should be noted that the Court of Appeals continuously and incorrectly**
25 **applied the 2013 version of 207.012 to Chambers’ argument.** OA 13-16. This
26 was done despite the fact that the Court of Appeals made a point of saying the
27 2013 amendments did not go into effect until October 1, 2013, which was after the
28 commission of the instant crimes in July of 2013. OA 13 fn. 6. The 2009 version of
NRS 207.012 is applicable to Chamber’s case, not the 2013 version.

1 was charged by way of information (not indictment) and it in no way overrides or
2 renders moot the requirements set forth in NRS 207.012 (2009) and NRS 207.010
3 (2009). **AOB 42-43.** NRS 207.016 (2007) dictates *when* the State must give notice,
4 *not how*.
5

6 NRS 207.016 states in relevant part:
7

8 “A count pursuant to NRS 207.010, 207.012 or 207.014 may be
9 separately filed after conviction of the primary offense, but if it is so
10 filed, the sentence must not be imposed, or the hearing required by
11 subsection 3 held, until 15 days after the separate filing.”

12 Nev. Rev. Stat. § 207.016 (2007).

13 In 2013, when the Nevada Legislature amended NRS 207.016, it added
14 language stating that the State could give notice of intent to seek habitual treatment
15 in a document other than the information or indictment thereby allowing the State
16 to simply file a notice of intent to seek habitual treatment. However, the 2013
17 version was not applicable to Chambers’ sentencing proceedings.
18

19 NRS 207.012 does not allow the State to simply give notice to a defendant
20 that it intends to seek habitual criminal treatment where the defendant was charged
21 by way of information (not indictment).
22

23 NRS 207.012(2) states in relevant part:
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25 “The district attorney **shall** include a count under this section
26 **in any information** or shall file a notice of habitual felon if an
27 indictment is found....[...]”

28 Nev. Rev. Stat. § 207.012 (2009)(emphasis added). **AOB 39-40.**

1 NRS 207.010 does not allow the State to simply give notice to a defendant
2 that it intends to seek habitual criminal treatment where the defendant was charged
3 by way of information (not indictment).
4

5 NRS 207.010(2) states in relevant part:

6 “It is within the discretion of the prosecuting attorney
7 whether to include a count under this section in any
8 information or file a notice of habitual criminality **if** an
9 indictment is found. The trial judge may, at his or her
10 discretion, dismiss a count under this section which is
11 included in any indictment or information.”

12 Nev. Rev. Stat. § 201.010 (2009) (emphasis added).

13 NRS 173.095 does not allow the State to simply give notice to a defendant
14 that it intends to seek habitual criminal treatment where the defendant was charged
15 by way of information (not indictment).
16

17 NRS 173.095 states:

18
19 1. The court may permit an **indictment or information to**
20 **be amended at any time** before verdict or finding if no
21 additional or different offense is charged and if substantial
22 rights of the defendant are not prejudiced.

23 2. If an **indictment** is found charging a primary offense
24 upon which a charge of habitual criminality may be based,
25 **the prosecuting attorney may file a notice of habitual**
26 **criminality with the court.** If an indictment is found
27 charging a primary offense upon which a charge of:

28 (a) Habitually fraudulent felon may be based, the
prosecuting attorney shall file a notice of habitually
fraudulent felon with the court.

1 (b) Habitual felon may be based, the prosecuting
2 attorney shall file a notice of habitual felon with the
3 court.

4 3. The **court shall permit an information to be amended**
5 pursuant to subsection 4 of NRS 173.035.

6 Nev. Rev. Stat. § 173.095 (1995) (emphasis added).
7

8 With respect to the version of the statutes applicable to Chambers'
9 sentencing proceedings, the Nevada Legislature has repeatedly distinguished
10 between how a defendant must be charged with the habitual criminal count where
11 the defendant has been originally charged by way of indictment vs. information.
12 When a defendant is charged by way of indictment, the State may file an amended
13 indictment or a notice to seek habitual criminal treatment. When a defendant is
14 charged by way of information, the State may only file an amended information
15 charging the habitual criminal treatment.
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19 This is not simply a notice or timeliness issue. ***This is a jurisdictional issue.***
20 **AOB 40-41; 44; 47.** Adherence to the mandatory procedure set forth in NRS
21 207.012 and NRS 207.010 **is what vests the district court with jurisdiction to**
22 **sentence a defendant as a habitual criminal.** Grey v. State, 124 Nev. 110, 123-
23 24, 178 P.3d 154, 163-64 (2008). Respectfully, this jurisdictional issue is not
24 addressed in the Court of Appeals Order of Affirmance nor was Chambers'
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1 argument regarding the improper adjudication of him as a habitual criminal under
2 207.010 (2009) addressed.

3
4 Chambers was charged by way of Information. 1 AA 1-4. Because of this,
5 the district court would only have had jurisdiction to sentence Chambers as a
6 habitual felon under NRS 207.012 and NRS 207.010 had the State filed an
7 amended information including the charge of habitual criminality. **AOB 41.**
8 However, the State did not do so. Therefore, the district court did not have
9 jurisdiction to sentence Chambers as a habitual criminal. It was error on the part of
10 the district court to do so, Chambers' sentence amounts to an illegal sentence, and
11 this prejudiced Chambers giving him a sentence of life without the possibility of
12 parole. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); *see also*
13 NRS 176.555 .

14
15 Although the Court of Appeals ruled that if a defendant qualifies as a violent
16 habitual felon, he *must* be sentenced as such, this is not always true pursuant to the
17 plain language of the statute. **OA 14.** In the language of NRS 207.012(3), the
18 Nevada Legislature enunciates that the District Court only loses discretion to
19 dismiss a count under the habitual felon statute “**that is included in an indictment**
20 **or information.**” NRS 207.012(3). **AOB 41.** Again, the count **must** be included
21 in the information for this non-discretionary aspect of the statute to apply. NRS
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1 207.012 only becomes mandatory if the habitual felon count is “included in an
2 indictment of information,” neither of which happened in Chambers’ case.
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4 Here, the only document the State filed was a Notice of Intent to Seek
5 Habitual Criminal Treatment (2 AA 170-172), which does not comply with NRS
6 207.012 (2009), NRS 207.010 (2009), NRS 207.016 (2007) or 173.095 (1995).
7

8 **AOB 39-47.** An amended information including the habitual criminal count was
9 never filed. **AA generally.** Therefore, pursuant to said statutes, and **the District**
10 **Court did not have jurisdiction** to sentence Chambers as a habitual criminal.
11

12 **AOB 47, 53.** It was error on the part of the district court to do so, Chambers’
13 sentence amounts to an illegal sentence, and this prejudiced Chambers giving him
14 a sentence of life without the possibility of parole. Edwards v. State, 112 Nev. 704,
15 708, 918 P.2d 321, 324 (1996); *see also* NRS 176.555. To hold otherwise would be
16 to say that the State does not have to comply with mandatory provisions of
17 multiple Nevada statutes. **AOB 44-45.** The State cannot remedy this error on
18 remand by the filing of an amended information because Chambers has already
19 begun serving his sentence. Crutcher v. Eighth Judicial District Court, 111 Nev.
20 1286, 1289, 903 P.2d 823, 825 (1995).
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24 In fact, the Nevada legislature later amended 207.016 in 2013 to allow the
25 State to vest the district court with jurisdiction to sentence a defendant as a habitual
26 criminal by giving notice, as opposed to filing amended information, even where a
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1 defendant was charged by way of information. **AOB 42-43.**

2 The legislative intent is clear: prior to the 2013 amendment, for a district court to
3 have jurisdiction to sentence a defendant who was charged by way of information
4 as a habitual criminal, the State has to charge the habitual criminal count in an
5 information.
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7
8 Therefore, the finding that the district court properly adjudicated Chambers
9 as a habitual criminal is in direct conflict with Nevada statutes and legislative
10 intent regarding how the district court is vested with jurisdiction to do so. As such,
11 Chambers requests that this Court review and reverse the decision of the Court of
12 Appeals regarding his adjudication as a habitual criminal, and vacate his sentence
13 of life without the possibility of parole.
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16 17 **III. THE DECISION OF THE COURT OF APPEALS CONFLICTS WITH** 18 **PRIOR DECISION OF THE SUPREME COURT OF NEVADA**

19 The Court of Appeals only discussed the notice requirement
20 did not specifically address the issue of jurisdiction, nor did it address or analyze
21 Chambers' arguments pursuant to Grey, 124 Nev. at 124, 178 P.3d at 163-64 and
22 Crutcher, 111 Nev. at 1289, 903 P.2d at 825. **OA generally.** The only statement the
23 Court of Appeals made regarding the habitual criminal treatment (other than the
24 timeliness issue) was in a foot note, which stated, "Chambers also argues that the
25 State was required to provide him with notice in the charging document pursuant t
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1 NRS 207.012(2) and (3). We conclude that this argument lacks merit, as Chambers
2 was given proper notice under the applicable notice provision of NRS 207.016.”
3
4 **OA 14 fn. 7.** Additionally, the Court of Appeals elected not to analyze Chambers
5 argument that he was improperly sentenced as a habitual criminal pursuant to NRS
6 207.010. **OA 16.** This decision is in conflict with previous decisions issued by this
7 Court. **How** the State must vest the district court with jurisdiction is clearly
8 different when the defendant is charged by way of indictment such as in Grey vs.
9 by way of information such as in Crutcher. **AOB 43-46**

12 In Grey, the Supreme Court addressed whether or not the State properly
13 vested the district court with jurisdiction to sentence the defendant as a habitual
14 criminal when the defendant had been **charged by way of indictment**. The
15 Supreme Court held that it was plain error for the district court to sentence Grey as
16 a habitual criminal because the State had not “**duly**” filed the **notice** of habitual
17 criminality and therefore, the district court did not have jurisdiction to sentence
18 Grey as a habitual criminal. Id. at 123-24, 178 P.3d at 163-64. Although this Court
19 noted that the State could have filed a notice of habitual criminality *or* charge
20 defendant as a habitual criminal in the indictment, **Grey was charged by way of**
21 **indictment**. Therefore, pursuant to NRS 207.010, the State could have charged
22 Grey as a habitual criminal *or* file a notice of habitual criminality. Grey, 124 Nev.
23 at 113, 178 P.3d at 156. In Chambers’ case, the State did not have both options
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1 (notice or charging document) pursuant to NRS 207.012 or NRS 207.010 *because*
2 *Chamber was charged via information.* The reason Chambers relies on Grey is for
3 the argument that adherence to the mandatory procedures set forth in NRS 207.012
4 (2009) and NRS 207.010 (2009) is what vests the district court with jurisdiction to
5 sentence a defendant as a habitual criminal. 124 Nev. at 123-34, 178 P.3d at 163-
6 64 .

7
8
9 In Crutcher, the Supreme Court addressed whether or not the State properly
10 vested the district court with jurisdiction to sentence the defendant as a habitual
11 criminal when the defendant had been **charged by way of information**. **AOB 43-**
12 **44.** The Supreme Court held that the district court erred in adjudicating Crutcher a
13 habitual criminal because, at that time, “the state had not **filed an information**
14 seeking to impose the habitual criminal enhancement and listing Crutcher’s prior
15 felony conviction.” Id. at 825, 903 P.2d at 1289. **AOB 43-44.** At no point did the
16 Supreme Court mention a “notice” of habitual criminality because Crutcher was
17 charged by way of information, not indictment. Id. generally. **AOB 44.**

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19
20 In addition to holding that an information (not a notice) charging the
21 habitual criminal count should have been filed, this Court further held in Crutcher
22 that “[t]he **relevant statutory scheme** clearly premises the district court’s
23 authority to impose a habitual criminal sentence on the State’s filing of an
24 **allegation of habitual criminality.**” Id. at 124, 178 P.3d at 163-64 (emphasis
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1 added). This Court did not say the filing of a “notice.” It said “filing of an
2 allegation of habitual criminality” and that the district court’s authority to impose a
3 habitual sentence is premised upon the “relevant statutory scheme.” Id. **AOB 46.**

5 The “relevant statutory scheme” that was applicable to Chambers’
6 sentencing proceedings is as follows:
7

- 8 • NRS 207.016 controls **when** the State has to file for habitual criminal
9 treatment—the count can be filed before or after conviction but must
10 be filed 15 days prior to sentencing. NRS 207.016 is not the
11 controlling statute with respect to **how** the district court is vested with
12 jurisdiction to sentence a defendant as a habitual criminal. Nev. Rev.
13 Stat. § 207.016 (2007).
- 14 • NRS 207.012(2), NRS 207.010(2) and NRS 173.095 control **how** the
15 State has to file for habitual criminal treatment.
 - 16 ○ Where a defendant has been charged by way of indictment, the
17 State shall file a notice seeking habitual treatment; **where a
18 defendant is charged by way of information the State
19 SHALL file the habitual criminal charge in an information.**
20 Nev. Rev. Stat. § 207.012 (2009)
 - 21 ○ Where a defendant is charged by way of indictment, the state
22 may file a notice seeking habitual criminal treatment **but if
23 charged by information, the court shall permit an
24 information to be amended to add the habitual criminal
25 count.** Nev. Rev. Stat. §173.095 (1995)
 - 26 ○ The State can only file a notice **IF** an indictment is found.
27 Otherwise, such as **when a defendant is charged by way of
28 information, the State may file an amended information.**
Nev. Rev. Stat. § 207.010 (2009).
- NRS 207.016 and NRS 173.095 also allow the information or
indictment to be amended after conviction only for the purpose of
adding the habitual count. Nev. Rev. Stat. § 207.016 (2007); Nev.
Rev. Stat. § 173.095 (1995); see Scott v. State, 877 P.2d 503, 110
Nev. 622 (1994).

- NRS 207.012(3) controls the district court’s **discretion to sentence** a defendant under NRS 207.012—the district court must sentence the defendant as a habitual criminal **only if the habitual criminal charge is contained in an information or indictment.** Nev. Rev. Stat. § 207.012 (2009).

AOB 39-43

There is no portion of any of the aforementioned statutes, nor any applicable case law, that allows the State to vest the district court with jurisdiction to sentence a defendant as a habitual criminal under NRS 207.012 (2009) or NRS 207.010 (2009) with a **notice** of habitual criminality **when the defendant was charged via information.** The applicable statutory scheme was clear—where a defendant is charged by way of information, the State must file an information charging the habitual criminal **not** a notice and only then does the district court have jurisdiction to sentence as defendant as such.

This Court and the Nevada Legislature have also made it clear how statutes are to be interpreted. The word “shall” in a statute imposes a duty to act. NRS 0.025(d); Goudge v. State, 287 P.3d 301, 128 Nev. Adv. Op. 52 (2012); Johanson v. Dist. Ct., 124 Nev. 245, 249–50, 182 P.3d 94, 97 (2008); Washoe Med. Ctr. v. Dist. Ct., 122 Nev. 1298 1303, 148 P.3d 790, 793 (2006). **AOB 44-46.** "When the words of the statute have a definite and ordinary meaning, this court will not look beyond the plain language of the statute, unless it is clear that this meaning was not

1 intended.” Harris Assocs. v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81
2 P.3d 532, 534 (2003). Furthermore, the plain language of a statute reflects the
3 legislative intent and when the words of that statute have a definite ordinary
4 meaning, the court will not look beyond that plain language. Villanueva v. State,
5 117 Nev. 664, 27 P.3d 443, 446 (2001). **AOB 46.**
6
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8 Chambers was charged by way of Information. 1 AA 1-4. The State filed a
9 Notice of Intent to Seek Habitual Criminal Treatment, as opposed to an amended
10 information, in violation NRS 207.012(2), NRS 207.010(2), NRS 207.016 (2007)
11 and NRS 173.095 (1995). 2 AA 170-172. Therefore, pursuant to the mandates of
12 said statutes, the district court did not have jurisdiction to sentence Chambers as a
13 habitual felon. ³ Grey, 124 Nev. 110, 178 P.3d 154 and Crutcher, 111 Nev. at 1287,
14 903 P.2d at 824. This amounts to a violation of Chambers’ right to Due Process
15 under the Fourteenth Amendment to the United States Constitution and his
16 constitutionally protected interest in liberty. ⁴ Therefore, it was error on the part of
17 the district court to do so, Chambers’ sentence amounts to an illegal sentence, and
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23 ³ Moreover and again, pursuant to NRS 207.012(3), the Court was not mandated to
24 sentence Chambers as a habitual criminal due to the fact the State failed to file the
25 habitual criminal **in an information**. **AOB 40-41.**

26 ⁴ Walker v. Deeds, 50 F.3d 670 (9th Cir. Nev. 1995) (“Nevada's law requiring a
27 court to review and make particularized findings that it is ‘just and proper’ for a
28 defendant to be adjudged a habitual offender also creates a constitutionally
protected liberty interest in a sentencing procedure.”).

1 this prejudiced Chambers giving him a sentence of life without the possibility of
2 parole. Edwards, 112 Nev. at 708, 918 P.2d at 324; *see also* NRS 176.555. To hold
3 otherwise would be to say that the State does not have to comply with mandatory
4 provisions of multiple Nevada statutes. **AOB 44-45**. The State cannot remedy this
5 error on remand by the filing of an amended information because Chambers has
6 already begun serving his sentence. Crutcher, 111 Nev. at 1289, 903 P.2d at 825.
7

8
9 To hold that the district court had jurisdiction to sentence Chambers as a
10 habitual criminal pursuant to NRS 207.016 and NRS 207.010 is to hold the
11 following:
12

- 13
- 14 • The State and district court do not have to comply with mandatory
- 15 requirements of Nevada statutes;
- 16 • The State and district court do not have to comply with Nevada
- 17 Supreme Court case law;
- 18 • The State and district court can, *sua sponte*, look beyond the plain
- 19 language of a statute and create a new interpretation absent case law
- 20 allowing them to do so;
- 21 • The State and district court can, *sua sponte*, ignore the legislative
- 22 intent behind statute where the words in the statute have a definite
- 23 ordinary meaning absent case law allowing them to do so;
- 24 • Jurisdictional rules do not have to be followed; and
- 25 • A defendant's right to Due Process under the Fourteenth Amendment
- 26 to the United States Constitution is easily and without warning,
- 27 violated and disposed of.
- 28

29 Respectfully, this ruling conflicts with the law statutorily enunciated in NRS
30 207.012, NRS 207.010, NRS 173.095, NRS 207.016, NRS 0.025(d) as well as
31 previous decisions by the this Court in Grey, 124 Nev. at 124, 178 P.3d at 163-64;

1 Crutcher, 111 Nev. at 1289, 903 P.2d at 825; Goudge, 287 P.3d 301, 128 Nev.
2 Adv. Op. 52; Johanson, 124 Nev. at 249–50, 182 P.3d at 97 (2008); Washoe, 122
3 Nev. at 1303, 148 P.3d at 793; Villanueva, 117 Nev. 664, 27 P.3d at 446; Harris
4 Assocs., 119 Nev. at 641-42, 81 P.3d at 534; and Walker, 50 F.3d 670.

5
6 Therefore, the finding that the district court properly adjudicated Chambers
7 as a habitual criminal is in direct conflict with previous decisions of this
8 Court regarding how the district court is vested with jurisdiction to do so. As such,
9 Chambers requests that this Court review and reverse the decision of the Court of
10 Appeals regarding his adjudication as a habitual criminal, and vacate his sentence
11 of life without the possibility of parole.
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15 **IV. THE JURISDICTIONAL CONSEQUENCES OF FAILING TO**
16 **FOLLOW THE MANDATORY REQUIREMENTS OF NRS 207.010**
17 **(2009) AND 207.012 (2009) IS AN ISSUE OF FIRST IMPRESSION**

18 Although it appears from the plain and unambiguous language of NRS
19 207.012 (2009), NRS 207.010 (2009), NRS 173.095 (1995), and NRS 207.016
20 (2007), as well as the combined analysis of Crutcher and Grey that the State was
21 required to charge Chambers with the habitual criminal count *in an information* so
22 as to *vest the district court with jurisdiction* to sentence him as such, there is no
23 case law directly on point with respect to the older versions of these statutes
24 applicable to Chambers' sentencing proceedings. Therefore, Chambers respectfully
25 requests that this Court review and reverse the decision of the Court of Appeals,
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1 vacate Chambers' sentence and issue a published decision to create uniformity
2 amongst Nevada case law and statutory interpretation.
3

4 **V. THIS ISSUE IS ONE OF FUNDAMENTAL STATEWIDE**
5 **IMPORTANCE**

6 The issue raised in the instant Petition is one of fundamental statewide
7 importance because it affects the Due Process rights and liberty interests of all
8 defendants' who met the criteria for habitual criminal treatment prior to the
9 amendments in 2013. Walker, 50 F.3d 670. ("Nevada's law requiring a court to
10 review and make particularized findings that it is 'just and proper' for a defendant
11 to be adjudged a habitual offender also creates a constitutionally protected liberty
12 interest in a sentencing procedure.").

13
14 Therefore, Chambers respectfully requests that this Court review and reverse
15 the Court of Appeals Order, vacate his sentence and issue a published decision to
16 create uniformity amongst Nevada case law and statutory interpretation.
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1 **CONCLUSION**

2 Based upon the arguments contained herein, Chambers' respectfully requests
3
4 that this Court review and reverse the decision of the Court of Appeals regarding
5 his adjudication as a habitual criminal, and vacate his sentence of life without the
6 possibility of parole.
7

8 Dated this 9th day of January, 2020.

9 Respectfully submitted,
10

11
12 /s/ Jean Schwartzer
13 JEAN J. SCHWARTZER, ESQ
14 Nevada State Bar No. 11223
15 Law Office of Jean J. Schwartzer
16 10620 Southern Highlands Pkwy.
17 Suite 110-473
18 Las Vegas, Nevada 89141
19 (702) 979-9941
20 Jean.schwartzter@gmail.com
21 Counsel for Appellant
22
23
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25
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[X] This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 Edition in Times New Roman 14 point font; or

2. This brief exceeds the with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

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1 every assertion in the brief regarding matters in the record to be supported by a
2 reference to the page and volume number, if any, of the transcript or appendix
3 where the matter relied on is to be found. I understand that I may be subject to
4 sanctions in the event that the accompanying brief is not in conformity with the
5 requirements of the Nevada Rules of Appellate Procedure.
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8 DATED this 9th day of January, 2020.
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11

12 /s/ Jean Schwartzer
13 JEAN J. SCHWARTZER, ESQ
14 Nevada State Bar No. 11223
15 Law Office of Jean J. Schwartzer
16 10620 Southern Highlands Pkwy.
17 Suite 110-473
18 Las Vegas, Nevada 89141
19 (702) 979-9941
20 Jean.schwartzter@gmail.com
21 Counsel for Appellant
22
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AARON FORD, ESQ.

Gary Lamar Chambers
Inmate No: 76089
Ely State Prison
P.O. Box 1989
4569 North State Rt.
Ely, Nevada 89301

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