

FILED

SEP 26 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOMONIC RONALDO MALONE

Petitioner/Plaintiff,

v.

The Judicial District
Court of the State Of Nevada, In and
For the County of CLARK

Respondent/Defendant.

Case No. 02-C-24572-2

Dept. No. 17

Docket No. _____

PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner/Plaintiff DOMONIC RONALDO MALONE, pro per,
and respectfully moves this Honorable Court to issue a Petition for Writ of Mandamus, being filed
contemporaneously herewith, directing JUDGE MICHAEL P. VILLANI to ^{enforce} ~~reverse and vacate~~
his order, and/or actions in ^{GRANTING} ~~denying~~ Petitioner/Plaintiff CASE FILE IN ITS ENTIRETY / PRODUCTION
OF DOCUMENTS

This motion is made and based pursuant to the supporting Points and Authorities attached hereto,
N.R.S. 34.150 through N.R.S. 34.310, N.R.A.P., Rule 21, as well as all papers, pleadings, and
documents on file herein.

POINTS AND AUTHORITIES

Statement of Facts

ON FEBRUARY 1, 2012 the jury returned its verdict See JOC & transcript of trial held in 83DC Dept. 17. ON FEBRUARY 10, 2012, the jury returned with a Special Verdict as to COUNTS 13 & 14, Murder of the First Degree with use of a Deadly Weapon, and imposed a Sentence of Life without the Possibility of Parole as to both Counts.

A timely NOTICE OF APPEAL was filed by the SPECIAL PUBLIC DEFENDER OFFICE on behalf of Petitioner. JUNE 5, 2012. The SUPREME COURT (This Court) affirmed judgement on December 18, 2013, and issued a Remittur on JANUARY 15, 2014. On AUGUST 13, 2014 Appellant (Petitioner) filed a Post Conviction Petition for Writ of Habeas Corpus.

ON NOVEMBER 9th 2016, Petitioner submitted a Supplemental Memorandum of Points and Authorities in Support of Amended Supplemental Petition for Writ of Habeas Corpus ("Supplement") On February 9th 2017, the State filed its Response to Petitioner's February 18, 2016 Amended Supplemental Petition for Writ of Habeas Corpus ("Petition") and to the Supplement.

Following argument by State & the Petitioner on MARCH 8th 2017, the Court deferred its decision on this matter and ultimately denied Petitioner without evidentiary hearing.

Charles Cano & Randall Pike of the Special Public Defender Office were trial counsel on case Jonell Thomas of the Special Public Defender Office was direct Appeal counsel. Due to the complexity of my case no. 06-C-284572-2 Betsy Allen Esq. was appointed for Post conviction until fired by Petitioner and ultimately sued by Petitioner.

Petitioner filed numerous motions for his case file along with numerous letters to the above named parties and to 8th JDC Judge Villani demanding his case file in its entirety each time the Court granted motions in part related to CASE FILE. HOWEVER, the Court never enforced its ORDER regarding Petitioner's CASE FILE AND once Petitioner brought to the attention of the Courts its neglect to enforce its order during the MARCH 8th 2017 hearing Petitioner was ignored by Court. When Petitioner ask for copy of hearing transcript Petitioner was denied request see: Habeas hearing transcript 3-8-17@10:44M

II. LEGAL ARGUMENT

Petitions for Extraordinary Writs are addressed to the sound discretion of the Supreme Court of Nevada and may issue when there is no plain, speedy, and adequate remedy at law. See, State v. Second Judicial District Court ex. rel. County of Washoe, 11 P.3d 1209, ___ Nev. ___ (2000).

A writ of mandamus is issued to compel performance of an act which the law especially enjoins as a duty resulting from an office, trust or station. See, Lewis v. Stewart, 619 P.2d 1212, 96 Nev. 846 (1980).

A writ of mandamus may issue to control arbitrary or capricious exercise of discretion. See, Barnes v. Eighth Judicial District Court of the State of Nevada, in and for Clark County, 748 P.2d 483, 103 Nev. 679 (1987).

This Court has also held that the action being sought to be compelled must be one already required by law. See, Mineral County v. State, Department of conservation and Natural Resources, 20 P.3d 800, ___ Nev. ___ (2001).

Mandamus is the appropriate vehicle for challenging contested orders entered by the District Court. See, Angell v. Eighth Judicial District court in and for the county of Clark, 839 P.2d 1329, 108 Nev. 923 (1992).

It has also been held that a writ of mandamus is proper when the petitioner raises urgent and important issue[s] of law requiring clarification by the Supreme Court. See, Falcke v. Douglas County, 3 P.3d 661, ___ Nev. ___ (2000).

LEGAL ARGUMENT

State law gives me this right Nev. Rev. Stat. 7.055; provides that:

An attorney who has been discharged by his client shall, upon demand... immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 116b(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as... surrendering papers and property to which the client is entitled..."

As a US & NV. Citizen I have a great expectation that my rights "is" protected under this Nation & State Constitution.

So I move this NV. Sup. Ct. to enforce the lower court district Judge Villani to enforce its (his) ORDER for Special Public Defender and Betsy Allen, District Attorney Office. To send a copy of the file to Petitioner in Indian Springs; "And to ORDER Judge Villani to make sure that Petitioner is given the entire actual case file in its entirety..."

Meaning: in its entirety any and all things related to Petitioner case file directly or indirectly in case number 06-C-224572-2 papers, notes, documents, e-mails; work product, and Private Investigator files, DNA profiles/notes; trial exhibits, (photo copies) & Demonstrative of cell phone tower records used at trial... this request is not exhausted as I have never had possession of my case file...

"The facts and evidence of this case will never change so no matter how long I will be denied access to my case file - It won't change the fact that the State use perjured testimony and fabricated evidence of which they knew to be false; as did the Special Public Defender Title 18 U.S.C., sect 242, 243 "Office

All I'm ask this NV. Sup. Ct. is to remember its oath to the US & NV. Constitution & protect it even against one of their own (lower Courts)...

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to Order Judge Villani, District Attorney, Special Public Defender, & Betsy Allen Esq.
to forward case file in its entirety to Petitioner
within a reasonable amount of time as required by N.R.S. 34.830.

DATED this 14th day of September, 2017.

Respectfully submitted,

Domenic R. Malone

Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Petition for Writ of Mandamus, and that on this 14th day of September, 2017 I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the HIGH DESERT State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Supreme Court of Nevada
Office of the Clerk
201 S. Carson Street, Suite 201
Carson City, NV. 89701

DATED this 14th day of September, 2017.

Domenic R. Malone
Petitioner/Plaintiff

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Petition For Writ of Mandamus

(Title of Document)

filed in District Court Case No. 06-C-224572-2



Does not contain the social security number of any person.

-OR-



Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-OR-

B. For the administration of a public program or
for an application for a federal or state grant.

Domoni R. Meli

(Signature)

9/14/2017

(Date)