

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY DERRICK FAIR,  
Appellant(s),

vs.

BRIAN WILLIAMS, WARDEN,  
Respondent(s),

Electronically Filed  
May 22 2018 11:06 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No: A-17-764995-W

Docket No: 75487

## RECORD ON APPEAL

**ATTORNEY FOR APPELLANT**

GARY FAIR #90314,  
PROPER PERSON  
P.O. BOX 650  
INDIAN SPRINGS, NV 89070

**ATTORNEY FOR RESPONDENT**

ADAM PAUL LAXALT,  
ATTORNEY GENERAL  
555 E. WASHINGTON AVE., STE 3900  
LAS VEGAS, NV 89101

**A-17-764995-W**

**Gary Fair, Plaintiff(s)  
vs.  
Brian Williams, Defendant(s)**

**I N D E X**

<b><u>VOL</u></b>	<b><u>DATE</u></b>	<b><u>PLEADING</u></b>	<b><u>PAGE NUMBER:</u></b>
1	03/28/2018	CASE APPEAL STATEMENT	28 - 29
1	05/15/2018	CASE APPEAL STATEMENT	43 - 44
1	05/22/2018	CERTIFICATION OF COPY AND TRANSMITTAL OF RECORD	
1	05/02/2018	DECISION AND ORDER	30 - 33
1	05/22/2018	DISTRICT COURT MINUTES	45 - 46
1	03/26/2018	NOTICE OF APPEAL	25 - 27
1	05/11/2018	NOTICE OF APPEAL	39 - 42
1	05/03/2018	NOTICE OF ENTRY OF ORDER	34 - 38
1	01/16/2018	ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS	8 - 9
1	11/21/2017	PETITION FOR WRIT OF HABEAS CORPUS	1 - 7
1	02/23/2018	RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS	10 - 24

59  
FILED

NOV 21 2017

1 Gary DERRICK Fair #90314  
2 P.O. BOX 650  
3 Indian Springs, NV. 89070

THE Honorable

*John A. Blum*  
CLERK OF COURT

4  
5 GARY DERRICK FAIR

6 Plaintiff.

7 vs.

8  
9 Brian Williams {WARDEN}

10 Defendant

Valerie Adair  
Eighth Judicial District Court

A-17-76495-W

Case No.: C-16-319960-1

Dept. No.: XY + VII

Docket No.: \_\_\_\_\_

11  
12  
13 PETITION FOR WRIT OF HABEAS CORPUS

14  
15 Petition for writ of Habeas Corpus post  
16 Conviction challenge of computation of time comes now  
17 Petitioner/Plaintiff {Gary DERRICK Fair} proper and respect-  
18 fully moves this honorable court to issue a petition of  
19 writ of Habeas Corpus being filed contemporaneously here  
20 with Warden Brian Williams, Warden of High Desert State  
21 Prison to award statutory good time credits to his minimum  
22 sentence. This motion is made based pursuant to the supporting  
23 points and authorities attached here to as well as all  
24 papers, pleading documents on file in this case as well as  
25 oral arguments deemed necessary by the Honorable Court.

26 //

27 //

28 //

RECEIVED

NOV 16 2017

CLERK OF THE COURT

## Statement of Facts:

THE PETITIONER/PLAINTIFF {GARY DERRICK FAIR} being found guilty of the crime of Grand Larceny, and sentenced to a maximum term of 12½ years with a parole minimum eligibility of 5 years. The imposed sentence is to be served in the NEVADA DEPARTMENT OF CORRECTIONS. THE PETITIONER HAS EARNED STATUTORY CREDITS, HOWEVER THOSE CREDITS HAVE NOT BEEN DEDUCTED FROM THE MINIMUM IMPOSED SENTENCE.

## Points of Authority

### Legal Argument

NEVADA DEPARTMENT OF CORRECTIONS IS NOT DEDUCTING STATUTORY CREDITS EARNED PURSUANT TO NRS. 209.4465 (7)(B).

PETITIONER/PLAINTIFF {GARY DERRICK FAIR} deems that THE NEVADA DEPARTMENT OF CORRECTIONS HAS MIS-APPLIED AB 510 TO RESTRICT HIM FROM EARNING STATUTORY GOOD TIME CREDITS FROM THE MINIMUM PORTION OF HIS SENTENCE. NRS 209.4465 PROVIDES THAT IN RELEVANT PART THAT STATUTORY CREDITS ALLOWED UNDER THAT STATUTE APPLY TO ELIGIBILITY FOR PAROLE UNLESS THE OFFENDER WAS SENTENCED PURSUANT TO STATUTE WHICH SPECIFIES A MINIMUM SENTENCE WHICH MUST BE SERVED BEFORE A PERSON BECOMES ELIGIBLE FOR PAROLE. NRS. 209.4465 (7)(B) DOES NOT PRECLUDE CREDIT APPLICATION TO THE MINIMUM TERM, HOWEVER NEVADA DEPARTMENT OF CORRECTIONS SYSTEMATICALLY RESTRICTS ALL INMATES INCLUDING THE PLAINTIFF FROM STATUTORY CREDITS EARNED FROM THEIR MINIMUM SENTENCE APPLYING NRS. 209.4465 (8) IN VIOLATION OF THE EX POST FACTO CLAUSE. A STATUTE VIOLATES THE EX POST FACTO CLAUSE WHEN IT IMPOSES PUNISHMENT FOR AN OFFENSE THEN WAS ALLOWED OF THE TIME IT WAS COMMITTED.....

1 WEAVER 450 U.S. AT 28 Golds Worthy 86 NEV at  
2 255.468 p 2.d at 35a. There are two elements into the  
3 inquiry into whether a law is "ex post facto" It must be  
4 retrospective that it must apply to events occurring before  
5 its enactments, and it must disadvantage the offender  
6 effected by it. 'WEAVER 450 at 29' {footnote omitted}  
7 NRS. 209.4465 (13) disadvantage the plaintiff in the fact that  
8 the language in NRS. 209.4465 (7)(B) The statute clearly  
9 satisfies the second prong changes the application of credits  
10 effectively after the amount of time a prisoner must serve.  
11 So any deduction in the amount of {time} {credits} applied  
12 disadvantages the prisoner. WEAVER 450 U.S. at 32-34  
13 when NRS 209.4465 was enacted, only the statute for  
14 certain category "A" Felonies or Felons specified a minimum  
15 sentence that had to be served before a convicted offender  
16 would become eligible for parole. SEE NRS. 200.320(1).  
17 Thus offenders convicted of felonies that were not category  
18 "A" Felonies were entitled to have statutory credits  
19 deducted from the minimum term imposed. The Plaintiff/  
20 Petitioner {Erwin DERRICK FAIR} is not convicted of a  
21 category "A" Felony. Alternately the plain language of  
22 NRS. 213.120(2) and NRS. 209.4465 (2) appears to be  
23 in conflict. The plain language of NRS. 213.120(2)  
24 provided that these credits could apply to parole eligibility  
25 ~~unless~~ <sup>unless</sup> the sentencing statute specifies a minimum sentence  
26 that must be served before a person becomes eligible for  
27 parole. Words in a statute should be given their plain  
28 meaning.....

1 ... Unless this violates the spirit of the Act McKay  
2 vs. Board of Carson City 102 Nev 644, 648, 230 P.2d  
3 438, 441 (1986) Both the plain language and the legislature  
4 history of NRS. 213.120 (2) are clear that the intent was  
5 to ensure that convicted felons serve a minimum amount of  
6 time and could not be paroled before that minimum period  
7 time had been served hearing on SB 416 before the Senate  
8 subcommittee on Judiciary 68<sup>th</sup> leg. The Legislature  
9 history of NRS. 209.4465 is silent as to its intent  
10 regarding parole, however a person becomes eligible for  
11 parole once they have served the minimum term of imprison-  
12 ment. And since NRS. 209.4465 (7)(B) allows for the  
13 application of statutory time credits to parole eligibility the  
14 plain language of the statute clearly contemplates the  
15 deduction of statutory credits from the minimum term of  
16 imprisonment and since NRS. 209.4465 (7)(B) allows for the  
17 application of statutory credits to parole eligibility the  
18 plain language of the statute clearly contemplates the  
19 deduction of statutory credits from the minimum term  
20 of imprisonment. Thus there is an existing statute that  
21 prohibits deducting NRS chapter 209 credits from the  
22 minimum term of imprisonment co-existing with a new  
23 statute that allowed such deductions except in certain  
24 circumstances when two statutes cannot be interpreted in  
25 a way that renders them not compatible, not contradictory,  
26 Antonio Scalia and Brian Garner reading in the inter-  
27 pretation of legal text 180 (2012) the newer and/or  
28 more specific statute.....,

1 ... and its specific provisions should generally take  
2 precedence Ader vs. Warden, 121 Nev 682.687.120 P.3d  
3 1164, 1167, 2005. Scallia and Former Supra at 183.185  
4 NRS. 209.4465 (7)(B) is the more recently enacted statute  
5 and its specific provision allowing the deduction of  
6 statutory credits from the eligibility of parole should  
7 take precedence over the more general prohibition in  
8 NRS. 213.120 (2). Accordingly, for determining the deduction  
9 of statutory credits from Gary DERRICK FAIR #90314  
10 minimum term of imprisonment.

11 //

12 //

## 13 II conclusion

14 //

15 wherefore all of the above stated reasons  
16 petitioner/plaintiff respectfully requests this honorable  
17 court to order Warden Brian Williams to deduct statutory  
18 credits from the petitioner's minimum term of imprisonment.

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

[illegible]

DATED THIS 13<sup>th</sup> day of November, 2017.

1. GARY DERRICK FAIR, do

solemnly swear, under the penalty of perjury, that  
the above STATEMENTS/WRITINGS is accurate,  
correct, and true to the best of my knowledge.

NRS 171.102 and NRS 208.165.

Respectfully submitted,

Mary D. Ford

~~2020/10/10~~ plaintiff/petitioner



GARY DERRICK Fair # 90314

H. D. S. P.

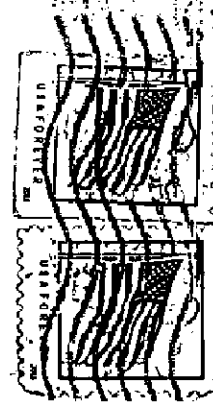
P.O. Box 650

Indian Springs, NV.

89070

LAS VEGAS NV 890

14 NOV 2017 PM 4 1



STEVEN D. GRIERSON  
CLERK OF THE COURT

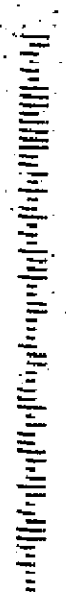
200 LEWIS AVENUE

LAS VEGAS, NV.

89155

UNIT 2 CID  
1 NOV 2017  
HIGH DENSITY SORTER

89101-630000





OPWH - AB510

DISTRICT COURT  
CLARK COUNTY, NEVADA

**GARY DERRICK FAIR,**

Petitioner(s),

vs.

**BRIAN WILLIAMS, WARDEN,**

Respondent(s).

Case No.: **A-17-764995-W**

Dept. No.: 7

**ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner filed a Petition for Writ of Habeas Corpus on November 21, 2017. The Court has reviewed the Petition and has determined a response would assist the Court in determining whether Petitioner has been awarded all appropriate good-time credits as provided in Assembly Bill 510 and, good cause appearing therefore,

IT IS HEREBY ORDERED, Respondent shall, within 45 days after the date of this Order, Answer or otherwise respond to the Petition and file a return in accordance with the provisions set out in NRS 209.

IT IS FURTHER ORDERED, this matter shall be placed on calendar on **Tuesday, FEBRUARY 27, 2018 at 9:00 a.m.** in District Court Department 7, Courtroom 15A.

DATED this 16th day of January, 2018.

HEARING DATE  
ALREADY ENTERED

JAN 16 2018

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

  
LINDA MARIE BELL  
DISTRICT COURT JUDGE

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

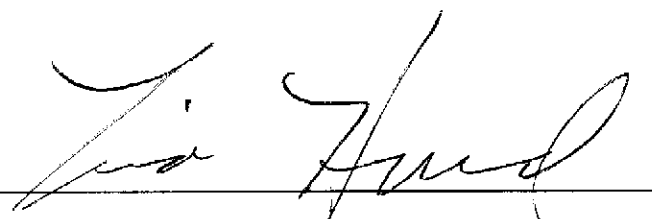
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of the filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Gary Derrick Fair #90314  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070-0650

Office of the Attorney General  
Appellate Division  
555 E. Washington Ave., Suite 3900  
Las Vegas, NV 89101-1068

  
TINA HURD, Judicial Executive Assistant



RSPN  
ADAM PAUL LAXALT  
Attorney General  
Ashley Balducci (Bar No. 12687)  
Deputy Attorney General  
State of Nevada  
Office of the Nevada Attorney General  
555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101-1068  
(702) 486-3086 (phone)  
(702) 486-2377 (fax)  
aBalducci@ag.nv.gov

Attorneys for Respondents

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

GARY DERRICK FAIR,

Petitioner,

vs.

BRIAN WILLIAMS, WARDEN,

Respondent(s).

Case No. A-17-764995-W  
Dept. No. VII

Date of Hearing: 02/27/2018  
Time of Hearing: 9:00 a.m.

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Respondents oppose Petitioner Gary Derrick Fair's ("Fair") *Petition for Writ of Habeas Corpus*. The petition should be denied as the Nevada Department of Corrections (NDOC) has awarded Fair credit against his sentence in conformity with NRS 209.4465; and Fair has not presented evidence that he is exempt from the application of NRS 209.4465(8). This response is made and based upon the papers and pleadings on file herein and the following points and authorities.

DATED this 23rd day of February 2018.

ADAM PAUL LAXALT  
Attorney General

By: /s/Ashley Balducci  
Ashley Balducci (Bar No. 12687)  
Deputy Attorney General

1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                                   **I.**

3                                   **BACKGROUND**

4           Petitioner Gary Derrick Fair aka Derrick Gary Fair (hereinafter "Fair") is currently incarcerated  
5 at High Desert State Prison (Exhibit 1, *Inmate Search*). Fair is under sentence for criminal acts he  
6 committed in 2016 (Exhibit 2, *Amended Information*). Although Fair entered a plea of guilty of Grand  
7 Larceny, a category C felony, the Eighth Judicial District Court adjudicated Fair guilty as a habitual  
8 criminal under NRS 207.010, raising the category of the offense to a category B felony (Exhibit 3,  
9 *Judgment of Conviction*). Fair was sentenced to incarceration for a maximum of twelve (12) years six  
10 (6) months with a minimum parole eligibility of five (5) years in the Nevada Department of Corrections  
11 with one hundred thirty-eight (138) days credit for time served. *Id.*

12                                   **II.**

13                                   **ARGUMENT**

14 **A.     Application of Credit Against Fair's Minimum Sentence is Prohibited by NRS**  
15 **209.4465(8).**

16           NRS 209.4465 applies to Fair, whose crimes were committed after July 17, 1997.<sup>1</sup> Under NRS  
17 209.4465(8) an inmate who is convicted of a felony crime of violence, a felony sex offense, or who has  
18 been convicted of a category A or B felony, is not eligible to have his credits applied against his parole  
19 eligibility or minimum sentence. NRS 209.4465(8). Fair contends that he is entitled to good time  
20 credits against his minimum sentence because he was adjudicated guilty of Grand Larceny, a category  
21 C felony. However, Fair is asserting an argument that is factually incorrect, the Eighth Judicial District  
22 Court adjudicated Fair guilty as a habitual criminal. NRS 207.010(a) provides, in pertinent part, as  
23 follows:

24                                   "[A] person convicted in this State of..."[a]ny felony, who has  
25                                   previously been two times conviction, whether in this State or elsewhere,  
26                                   of any crime which under the laws of the situs of the crime or of this

27                                   <sup>1</sup> NRS 209.432 to 209.451, inclusive, provide the statutory framework for the application of  
28 credit to an inmate's sentence. The appropriate statute is determined by the date that the crime was  
committed.

1 State would amount to a felony is a habitual criminal and shall be  
2 punished for a category B felony by imprisonment in the state prison...

3 NRS 207.010.

4 As such, Fair is serving time in prison for a category B felony rather than a category C felony.  
5 Thus, his credit is governed by NRS 209.4465(8)(d), which unequivocally prohibits NDOC from  
6 applying credit to his minimum term or parole eligibility. *See also* NRS 213.120.

7 **B. The *Williams* Decision Does Not Apply, as Fair's Crime Was Committed After the 2007**  
8 **Amendment of NRS 209.4465.**

9 Fair raises arguments similar to those addressed in the case of *Vonseydewitz vs. Legrand*, Case  
10 No. 66159, 2015 WL 3936827 (Nev. June 24, 2015) and the recent case of *Williams v. State of Nevada*  
11 *Dept of Corrections*, 133 Nev. Adv. Op. 75 (Oct. 5, 2017) to support his claim that he is entitled to  
12 credit against his minimum sentence. However, neither decision applies to Fair, as the law that  
13 governed the application of credit in those cases is different from that to be applied here. Crucially, the  
14 respective crimes were committed during different years. The Nevada Supreme Court has made clear  
15 that the *Vonseydewitz* and *Williams* decisions do not affect crimes committed after July 1, 2007.<sup>2 3</sup> This

16  
17 <sup>2</sup> Specifically, the Court stated, in an order denying *en banc* reconsideration, that *Vonseydewitz*  
applies to:

18 [T]hose [inmates convicted of] crimes committed on or between July 17,  
19 1997 and June 30, 2007,  
20 where the inmate's sentence does not fall under the parole limited  
provisions of NRS 453.3405(1),  
21 where the sentence has not expired nor the inmate gone before the parole  
board for that sentence, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768  
22 P.2d 882, 884 (1989),  
and then only for the time period when deductions have not already been  
23 applied retroactively pursuant to NRS 209.4465(8), *see* 2007 Nev. Stat.,  
ch. 525 § 21, at 3196.

24 *Vonseydewitz vs. Legrand*, No. 66159, at n. 1 (Nev. Feb 19, 2016) (order denying *en banc* recon-  
sideration).

25 <sup>3</sup> The Nevada Supreme Court stated in footnote 7 of their opinion,

26 Our interpretation of NRS 209.4465(7)(b) applies only to crimes  
27 committed on or between July 17, 1997 (the effective date of NRS  
209.4465) and June 30, 2007 (the effective date of NRS 209.4465(8)).  
28 Because the application of credits under NRS 209.4465(7)(b) only serves  
to make an offender eligible for parole earlier, no relief can be afforded

1 is because the language of the applicable statutes— NRS 209.4465 and NRS 213.120—was amended in  
2 2007 and negates the analysis applied in those cases. Here, Fair's offense took place in 2016, *after* the  
3 effective date of the 2007 amendment. Thus, even viewing the *Vonseydewitz* and *Williams* opinions in  
4 the light most favorable to Fair, the logic does not apply to his crime, he is not entitled to additional  
5 credits, and his reliance upon NRS 209.4465(7)(b) is erroneous.

6 **III.**

7 **CONCLUSION**

8 This Court should deny Fair's *Petition for Writ of Habeas Corpus* as NDOC has applied all  
9 credit the Petitioner has earned, and his request for application of credit against his minimum parole  
10 eligibility is prohibited by law.

11 Respectfully submitted this 23rd day of February 2018.

12 ADAM PAUL LAXALT  
13 Attorney General

14 By: /s/Ashley Balducci  
15 Ashley Balducci (Bar No. 12687)  
16 Deputy Attorney General  
17  
18  
19  
20  
21  
22  
23  
24

25 where the offender has already expired the sentence, . . . , or appeared  
26 before the parole board on the sentence, *see Niergarth v. Warden*, 105  
27 Nev. 26, 29, 768 P.2d 882, 883–84 (1989) (recognizing no statutory  
28 authority or caselaw allowing for retroactive grant of parole).

*Williams v. State Dep't of Corr.*, 402 P.3d 1260, 1265 (Nev. 2017).

**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: 23rd day of February, 2018.

ADAM PAUL LAXALT  
Attorney General

By: /s/Ashley Balducci  
Ashley Balducci (Bar No. 12687)  
Deputy Attorney General



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing *Response to Petition for Writ of Habeas*  
3 *Corpus* with the Clerk of the Court by using the electronic filing system on the 23rd day of January  
4 2018.

5 I certify that some of the participants in the case are not registered electronic filing system users.  
6 I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a  
7 third-party commercial carrier for delivery within 3 calendar days to the following unregistered  
8 participant(s) at his last known address:

9 Gary Derrick Fair aka Derrick Gary Fair, #90314  
10 c/o High Desert State Prison  
11 P.O. Box 650  
Indian Springs, NV 89070-0650

12 /s/ K. Plett  
13 An employee of the Office of the Attorney General  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

## Inmate Search

**Search By Offender ID**

Offender ID: 90314

-or-

**Search By Demographics**

First Name: Wildcard %

Last Name: Wildcard %

**Submit****NOTICE:**

The information provided here represents raw data. As such, the Nevada Department of Corrections makes no warranty or guarantee that the data is error free. The information should not be used as an official record by any law enforcement agency or any other entity.

Any questions regarding an inmate, please call Family Services at (775) 887-3367. Victims looking for inmate information please contact Victim Services at (775) 887-3393. Any questions regarding the web portal for law enforcement access to inmate information should be referred to PIO Brooke Keast. email: bkeast@doc.nv.gov or (775) 887-3309

Currently the following web browsers are supported for the Inmate Search: Internet Explorer 11, Chrome, Firefox and Opera. If you are unable to view inmate photos, please use a supported browser.

[Download Offender Data](#)

[Demographic](#), [Alias](#), [Booking](#), [Parole](#), [Release](#)

Up to date as of 2018-02-15

**Identification and Demographics**

Name	Offender ID	Gender	Ethnic	Age	Height	Weight	Build	Complexion	Hair	Eyes	Institution	Custody Level	Aliases	Prior Felonies
DERRICK GARY FAIR	90314	Male	BLACK	41	6'0"	170lb	SLENDER	DARK	BLACK	BROWN	HIGH DESERT STATE PRISON	MEDIUM	GARY DERRICK FAIR, APPLE, KERRY GARY FAIR, A-JAX, KARRY, SCOTT, APPLE JAX, DERRICK G FAIR, AJAX, GARY FAIR, SCOTT KARRY, GARY GAIR, DERRICK FAIR, GARRY	YES

<http://167.154.2.76/inmatesearch/form.php>

2/15/2018

FAIR,  
KARKY  
FAIR,  
AJ

## Booking Information

Offense Code	Offense Description	Sent. Status	Sent. Min	Sent. Max	Sent. PED	Sent. MPR	Sent. County	Sent. PEXD	Sent. Type	Sent. RRD	Sent. Start Date
2195	CONSP TO VIOLATE CONT SUBST ACT, 1ST OFF	Discharged	19 mo.	48 mo.	2005-08-30		CLARK COUNTY COURTHOUSE	2008-02-16	DETERMIMATE		2005-09-08
3523	SALE/GIVE CONT SUBST, SCH 1&2, 1ST OFF	Discharged	19 mo.	48 mo.	2007-08-02	2007-11-16	CLARK COUNTY COURTHOUSE	2008-04-22	DETERMIMATE		2006-01-02
2270	ATT THEFT	Active	0 yr. 14 mo. 0 days	0 yr. 48 mo. 0 days	2013-10-27	2014-09-15	CLARK COUNTY COURTHOUSE	2015-04-04	DETERMIMATE		2013-01-23
3560	HABITUAL CRIMINAL (LESSER)	Active	5 yr. 0 mo. 0 days	12 yr. 6 mo. 0 days	2022-04-05	2023-03-07	CLARK COUNTY COURTHOUSE	2023-09-09	DETERMIMATE		2017-04-06

## Inmate Photo



## Parole Hearing Details

Offender Book ID	Parole Hearing Date	Parole Hearing Location
68815	2007-04-19	TONOPAH CONSERVATION CAMP
153942	2013-07-10	PAROLE BOARD ROOM 101
153942	2014-03-19	PAROLE BOARD ROOM 401

# EXHIBIT 2

Amended Information

ORIGINAL

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

FEB 28 2017

BY *Jill M Chambers*  
JILL M CHAMBERS, DEPUTY

AINF  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
SARAH OVERLY  
Deputy District Attorney  
Nevada Bar #012842  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-16-319960-1  
AINF  
Amended Information  
4027099



THE STATE OF NEVADA,  
Plaintiff,

-vs-

DERRICK GARY FAIR,  
#1208879  
Defendant.

CASE NO. C-16-319960-1

DEPT NO. XXI

AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss:

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That DERRICK GARY FAIR, the Defendant(s) above named, having committed the crime of **GRAND LARCENY (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004)**, on or about the 5th day of June, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did then and there willfully, unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take and carry away, lead away or drive away property owned by LOWE'S, having a value of \$650.00 or more, to-wit: four (4) plumbing faucets and one (1) extension cord, the Defendant(s) being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with

1 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
2 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
3 conspiracy to commit this crime, with the intent that this crime be committed, Defendant and  
4 an unknown co-conspirator aiding or abetting and/or conspiring by Defendant and an unknown  
5 co-conspirator acting in concert throughout.

6  
7 STEVEN B. WOLFSON  
8 Clark County District Attorney  
9 Nevada Bar #001565

10 BY

  
11 SARAH OVERLY  
12 Deputy District Attorney  
13 Nevada Bar #012842  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 DA#16F14081X /jr/L-1  
28 LVMPD EV#1606061802  
(TK12)

# EXHIBIT 3

Judgment of Conviction



*Steven D. Grierson*

JOCP

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DERRICK GARY FAIR  
#1208879

Defendant.

CASE NO. C-16-319960-1

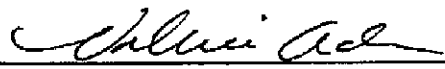

DEPT. NO. XXI

JUDGMENT OF CONVICTION  
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of GRAND LARCENY (Category C Felony) in violation of NRS 205.220.1, 205.222.2; thereafter, on the 22<sup>nd</sup> day of August, 2017, the Defendant was present in court for sentencing with counsel SARAH HAWKINS, Deputy Public Defender, and good cause appearing,

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense under the  
2 SMALL HABITUAL Criminal Statute and, in addition to the \$25.00 Administrative  
3 Assessment Fee and \$4,001.97 Restitution plus \$3.00 DNA Collection Fee, the  
4 Defendant is sentenced as follows: a MAXIMUM of TWELVE (12) YEARS SIX (6)  
5 MONTHS with a MINIMUM parole eligibility of FIVE (5) YEARS in the Nevada  
6 Department of Corrections (NDC); with ONE HUNDRED THIRTY-EIGHT (138) DAYS  
7 credit for time served. As the \$150.00 DNA Analysis Fee and Genetic Testing have  
8 been previously imposed, the Fee and Testing in the current case are WAIVED.  
9

10 DATED this 5<sup>th</sup> day of September, 2017  
11

12  
13  
14   
15 VALERIE P. ADAIR  
16 DISTRICT COURT JUDGE   
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Steven D. Grierson*

1 GARY J. FAIR #90314

2 In Proper Person

3 P.O. Box 650 H.D.S.P.

4 Indian Springs, Nevada ~~89016~~

89070

5 EIGHTH

6 ~~JUDICIAL~~ JUDICIAL DISTRICT COURT

7 CLARK COUNTY NEVADA

8 STATE OF NEVADA,

9 Plaintiff,

10 -v-

11 GARY FAIR,

12 Defendant.

Case No. A-17-764995-W

Dept. No. 7

Docket \_\_\_\_\_

14 NOTICE OF APPEAL

15 Notice is hereby given that the NAMED Defendant, Gary

16 Fair, by and through himself in proper person, does now appeal

17 to the Supreme Court of the State of Nevada, the decision of the District

18 Court In dispute of The Computation of Statutory "flood Time"

19 according to NRS 209.4465. N.D.O.C. is denying ME

20 my DUE PROCESS RIGHTS OF CORRECTING my P.E.D.

21 Dated this date, MARCH 21, 2018.

24 Respectfully Submitted,

25 *Gary Fair*

26 In Proper Person

27 RECEIVED

28 MAR 26 2018

CLERK OF THE COURT

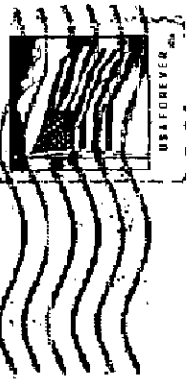
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- Headline -

By the application of the exclusionary provisions of SECTION (8) of NRS 209.4465 (2007) to deny me 20 days of statutory "Good Time" per month being deducted from the minimum term of my sentence. I incorporated all the facts contained in ground one. THE NEVADA DEPARTMENT OF CORRECTIONS appears to be denying ~~me~~ me the 20 days a month of statutory "Good Time" deducted from the minimum (and maximum) term of my sentence. I rely upon the decision in the following cases to support my position in this ground for relief. WEAVER v. Grahame 450 U.S. 24 (1981) STEVENS v. NEVADA STATE PRISON. 969 P. 2d 945 NV(1991) and Goldworthy v. Hannifin. 468 P. 2d, 350 (1970)

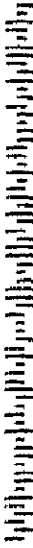
GARY D. FAIR #90314  
P.O. BOX 650  
Indian Springs, NV.  
89070

LAS VEGAS NV 890  
22 MAR 2018 PM 5:1



STEVEN D. GRIERSON  
CLERK of the COURT  
200 LEWIS AVENUE, 3<sup>rd</sup> FLOOR  
LAS VEGAS, NV.  
89155-1160

BS101-EG00000



MAR 21



1 ASTA

2  
3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**

9 GARY DERRICK FAIR,

10 Plaintiff(s),

11 vs.

12 BRIAN WILLIAMS {WARDEN},

13 Defendant(s),

Case No: A-17-764995-W

Dept No: VII

14  
15  
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Gary Fair

18 2. Judge: Linda Marie Bell

19 3. Appellant(s): Gary Fair

20 Counsel:

21 Gary Fair #90314  
22 P.O. Box 650  
23 Indian Springs, NV 89070

24 4. Respondent (s): Brian Williams {Warden}

25 Counsel:

26 Adam Paul Laxalt, Attorney General  
27 555 E. Washington Ave., Ste. 3900  
28 Las Vegas, NV 89101

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Appellant Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
8 \*\*Expires 1 year from date filed

9 Appellant Filed Application to Proceed in Forma Pauperis: No  
10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: November 21, 2017

12 10. Brief Description of the Nature of the Action: Civil Writ

13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

14 11. Previous Appeal: No

15 Supreme Court Docket Number(s): N/A

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 28 day of March 2018.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk  
22 200 Lewis Ave  
23 PO Box 551601  
24 Las Vegas, Nevada 89155-1601  
25 (702) 671-0512

26  
27 cc: Gary Fair  
28



1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4  
5 GARY DERRICK FAIR,

6 Petitioner,

7 vs.

8 BRIAN WILLIAMS, WARDEN,

9 Respondents.

Case No. A-17-764995-W

Dept. No. VII

10 **DECISION AND ORDER**

11 Petitioner Gary Derrick Fair filed a Petition for Writ of Habeas Corpus challenging the  
12 computation of time by the Nevada Department of Corrections. The matter came before the Court  
13 on March 1, 2018. The Court did not entertain oral arguments and no parties were present. The  
14 Court now rules based solely on the pleadings pursuant to NRS 34.770(2). The Court denies Mr.  
15 Fair's Petition for Writ of Habeas Corpus.

16 **I. Factual and Procedural Background**

17 Gary Derrick Fair is serving a sentence for a 2016 Grand Larceny, a category C felony but  
18 was sentenced as a habitual criminal under NRS 207.010, raising the offense to a category B felony.  
19 Mr. Fair filed his Petition for Writ of Habeas Corpus on November 21, 2017. Mr. Fair alleges the  
20 Nevada Department of Corrections failed to properly apply good time credit to Mr. Fair's sentence.  
21 The Attorney General's Office filed a response on February 23, 2018. The Attorney General's  
22 Office argues Mr. Fair is not entitled to any additional good time credit deductions.

23 **II. Discussion**

24 The Nevada Supreme Court in Williams v. State, 402 P.3d 1260 (Nev. 2017) held that  
25 petitioners with offense dates between 1997 and June 30, 2007 are entitled to good time credits  
26 under NRS 209.4465(7)(b) if: (1) the petitioner was sentenced under a statute that did not specify a  
27 parole eligibility date; and (2) the petitioner has not already been before the parole board on that  
28 sentence.

RECEIVED

MAY 02 2018

LONDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

CLERK OF THE COURT



1 As Mr. Fair's offenses took place after July 1, 2007, after NRS 209.4465 was amended, the  
2 decision in Williams does not apply. Therefore, the Court will be applying the current form of NRS  
3 209.4465.

4 **Nevada Revised Statute 209.4465(8) governs the award of credits for crimes for offenses**  
5 **committed after July 1, 2007**

6 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or  
7 after July 17, 1997. An inmate that meets certain qualifications "must be allowed. . . a deduction of  
8 20 days from his or her sentence for each month the offender serves." NRS 209.4465(1). These  
9 credits "[a]pply to eligibility for parole" unless "otherwise provided in subsections 8 and 9." NRS  
10 209.4465(7). Under subsection 8, the credits apply to eligibility for parole for:

11 an offender who has not been convicted of:

12 (a) Any crime that is punishable as a felony involving the use or threatened  
13 use of force or violence against the victim;

14 (b) A sexual offense that is punishable as a felony;

15 (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is  
16 punishable as a felony; or

17 (d) A category A or B felony.

18 NRS 209.4465(8).

19 The Court finds Mr. Fair is not entitled to good time credit deductions from Mr. Fair's parole  
20 eligibility date under NRS 209.4465. All of Mr. Fair's sentence is for a post July 1, 2007 category B  
21 felony. As his offenses were committed after the effective date of the 2007 amendment of NRS  
22 209.4465, NRS 209.4465(8) governs rather than NRS 209.4465(7). Nevada Revised Statutes  
23 209.4465(8) specifically exempts these types of offenses from NRS 209.4465(1)'s award for good  
24 time credit deductions from an inmate's parole eligibility date. Consequently the Court denies Mr.  
25 Fair's Petition.

26 ///

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

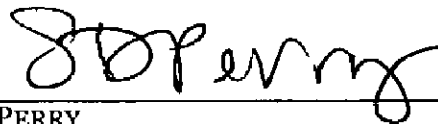
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
Gary Derrick Fair c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent



SYLVIA PERRY  
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A751423 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell  
District Court Judge

Date 4/2/2018



1 NEOJ

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 GARY FAIR,

5  
6 Petitioner,

Case No: A-17-764995-W

Dept. No: VII

7 vs.

8 BRIAN WILLIAMS,

9 Respondent,

**NOTICE OF ENTRY OF ORDER**

10  
11 **PLEASE TAKE NOTICE** that on May 2, 2018, the court entered a decision or order in this matter, a  
true and correct copy of which is attached to this notice.

12 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
13 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
14 mailed to you. This notice was mailed on May 3, 2018.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17  
18 CERTIFICATE OF E-SERVICE / MAILING

19 I hereby certify that on this 3 day of May 2018, I served a copy of this Notice of Entry on the following:

20  
21 ☒ By e-mail:  
Clark County District Attorney's Office  
22 Attorney General's Office – Appellate Division-

23 ☒ The United States mail addressed as follows:  
24 Gary Fair # 90314  
P.O. Box 650  
25 Indian Springs, NV 89070

26 /s/ Amanda Hampton

27 Amanda Hampton, Deputy Clerk

*Steven D. Grierson*

1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 GARY DERRICK FAIR,

6 Petitioner,

7 vs.

8 BRIAN WILLIAMS, WARDEN,

9 Respondents.

Case No. A-17-764995-W

Dept. No. VII

10 **DECISION AND ORDER**

11 Petitioner Gary Derrick Fair filed a Petition for Writ of Habeas Corpus challenging the  
12 computation of time by the Nevada Department of Corrections. The matter came before the Court  
13 on March 1, 2018. The Court did not entertain oral arguments and no parties were present. The  
14 Court now rules based solely on the pleadings pursuant to NRS 34.770(2). The Court denies Mr.  
15 Fair's Petition for Writ of Habeas Corpus.

16 **I. Factual and Procedural Background**

17 Gary Derrick Fair is serving a sentence for a 2016 Grand Larceny, a category C felony but  
18 was sentenced as a habitual criminal under NRS 207.010, raising the offense to a category B felony.  
19 Mr. Fair filed his Petition for Writ of Habeas Corpus on November 21, 2017. Mr. Fair alleges the  
20 Nevada Department of Corrections failed to properly apply good time credit to Mr. Fair's sentence.  
21 The Attorney General's Office filed a response on February 23, 2018. The Attorney General's  
22 Office argues Mr. Fair is not entitled to any additional good time credit deductions.

23 **II. Discussion**

24 The Nevada Supreme Court in Williams v. State, 402 P.3d 1260 (Nev. 2017) held that  
25 petitioners with offense dates between 1997 and June 30, 2007 are entitled to good time credits  
26 under NRS 209.4465(7)(b) if: (1) the petitioner was sentenced under a statute that did not specify a  
27 parole eligibility date; and (2) the petitioner has not already been before the parole board on that  
28 sentence.

RECEIVED

MAY 02 2018

LONDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

CLERK OF THE COURT

1 As Mr. Fair's offenses took place after July 1, 2007, after NRS 209.4465 was amended, the  
2 decision in Williams does not apply. Therefore, the Court will be applying the current form of NRS  
3 209.4465.

4 **Nevada Revised Statute 209.4465(8) governs the award of credits for crimes for offenses**  
5 **committed after July 1, 2007**

6 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or  
7 after July 17, 1997. An inmate that meets certain qualifications "must be allowed. . . a deduction of  
8 20 days from his or her sentence for each month the offender serves." NRS 209.4465(1). These  
9 credits "[a]pply to eligibility for parole" unless "otherwise provided in subsections 8 and 9." NRS  
10 209.4465(7). Under subsection 8, the credits apply to eligibility for parole for:

11 an offender who has not been convicted of:

12 (a) Any crime that is punishable as a felony involving the use or threatened  
13 use of force or violence against the victim;

14 (b) A sexual offense that is punishable as a felony;

15 (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is  
16 punishable as a felony; or

17 (d) A category A or B felony.

18 NRS 209.4465(8).

19 The Court finds Mr. Fair is not entitled to good time credit deductions from Mr. Fair's parole  
20 eligibility date under NRS 209.4465. All of Mr. Fair's sentence is for a post July 1, 2007 category B  
21 felony. As his offenses were committed after the effective date of the 2007 amendment of NRS  
22 209.4465, NRS 209.4465(8) governs rather than NRS 209.4465(7). Nevada Revised Statutes  
23 209.4465(8) specifically exempts these types of offenses from NRS 209.4465(1)'s award for good  
24 time credit deductions from an inmate's parole eligibility date. Consequently the Court denies Mr.  
25 Fair's Petition.

26 ///

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

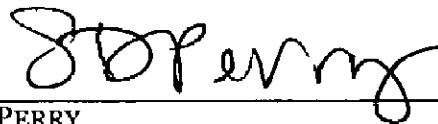
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
Gary Derrick Fair c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent



SYLVIA PERRY  
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A751423 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell  
District Court Judge

Date 4/2/2018



*Steven D. Grierson*

1 GARY D. FAIR # 90314

2 In Proper Person

3 P.O. BOX 650 H.D.S.P.

4 Indian Springs, NEVADA 89070

5 Eighth Judicial District Court

6 CLARK, County NEVADA

7  
8 STATE OF NEVADA

9 Plaintiff

CASE NO.

A-17-764995-W

DEPT NO.

7

DOCKET

10  
11 GARY D. FAIR

12 Defendant

13  
14 NOTICE OF APPEAL

15 Notice is hereby given that the NAMED Defendant, GARY  
16 FAIR

17 , by and through himself in proper person, does now appeal  
18 to the Supreme Court of the State of NEVADA, the decision of the District

19 Court In dispute of The Computation of Statutory 'Good Time'  
20 CREDITS according to NRS 209.4465. NIDOC is denying me my  
21 DUE PROCESS RIGHTS OF CORRECTING my P.E.D.

22 Dated this date May 8, 2018

23 Respectfully Submitted,

24  
25 Gary Fair

In Proper Person

26  
27  
28  
RECEIVED  
MAY 14 2018  
CLERK OF THE COURT

~ Headline ~

By the application of the exclusionary provisions of section (8) of NRS 209.4465 (2007) to deny me 20 days of statutory "Good Time" per month being deducted from the minimum term of my sentence. I incorporated all the facts contained in ground one. THE NEVADA DEPARTMENT OF CORRECTIONS appears to be denying ~~me~~ me the 20 days a month of statutory "Good Time" deducted from the minimum (and maximum) term of my sentence. I rely upon the decision in the following cases to support my position in this ground for relief. *WEAVER v. Graham* 450 U.S. 24 (1981) *STEVENS v. NEVADA STATE PRISON*, 969 P. 2d 945 NV(1991) and *Goldworthy v. Hannifin*, 468 P. 2d, 350 (1970)

HELLO,

I NEED my APPEAL RE-FILED BECAUSE I did it prematurely  
THE FIRST time (I did it BEFORE THE WRITTEN ORDER).

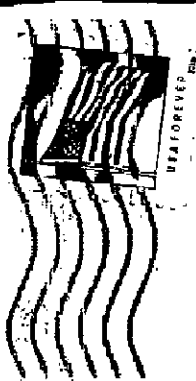
PLEASE REFILE my APPEAL.

THANKS FOR your time.

Gary D. Fair # 90314  
P.O. Box 650  
Indian Springs, NV.  
89070

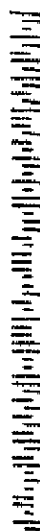
LAS VEGAS NV 890

09 MAY 2018 PM 3 L



STEVEN D. GRIERSON  
CLERK of the COURT  
200 Lewis Avenue, 3rd Floor  
LAS Vegas, NV.  
89155-1160

99101-630000





1 ASTA

2  
3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**

9 GARY DERRICK FAIR,

10 Plaintiff(s),

11 vs.

12 BRIAN WILLIAMS {WARDEN},

13 Defendant(s),

Case No: A-17-764995-W

Dept No: VII

14  
15  
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Gary Fair

18 2. Judge: Linda Marie Bell

19 3. Appellant(s): Gary Fair

20 Counsel:

21 Gary Fair #90314  
22 P.O. Box 650  
23 Indian Springs, NV 89070

24 4. Respondent (s): Brian Williams {Warden}

25 Counsel:

26 Adam Paul Laxalt, Attorney General  
27 555 E. Washington Ave., Ste. 3900  
28 Las Vegas, NV 89101

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Appellant Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
8 \*\*Expires 1 year from date filed

9 Appellant Filed Application to Proceed in Forma Pauperis: No  
10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: November 21, 2017

12 10. Brief Description of the Nature of the Action: Civil Writ

13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

14 11. Previous Appeal: Yes

15 Supreme Court Docket Number(s): 75487

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 15 day of May 2018.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk  
22 200 Lewis Ave  
23 PO Box 551601  
24 Las Vegas, Nevada 89155-1601  
25 (702) 671-0512

26  
27 cc: Gary Fair  
28

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**February 27, 2018**

---

A-17-764995-W      Gary Fair, Plaintiff(s)  
vs.  
Brian Williams, Defendant(s)

---

**February 27, 2018      9:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Phyllis Irby

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- No parties present. COURT ORDERED, MATTER CONTINUED.

3-01-18 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS

PRINT DATE: 05/22/2018

Page 1 of 2

Minutes Date: February 27, 2018

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**March 01, 2018**

---

A-17-764995-W      Gary Fair, Plaintiff(s)  
vs.  
Brian Williams, Defendant(s)

---

**March 01, 2018      9:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perry

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Court noted Defendant convicted of category B felony habitual criminal with an offense date of 2016; Defendant seeking good time credit under NRS 209.4465; however, as Defendant was convicted of a category B felony he is excluded from good time credit off his minimum sentence pursuant to NRS 209.4465(8) and COURT ORDERED, Petition DENIED.

**PRINT DATE:** 05/22/2018

**Page 2 of 2**

**Minutes Date:** February 27, 2018



# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated May 9, 2018, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 46.

GARY DERRICK FAIR,

Plaintiff(s),

vs.

BRIAN WILLIAMS {WARDEN},

Defendant(s),

Case No: A-17-764995-W

Dept. No: VII

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 22 day of May 2018.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk