

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

Electronically Filed
May 22 2018 03:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

5 Eighth Judicial District Court
6 CLARK, County NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

CASE NO. A-17-764995-W

10 -v-

DEPT NO. 7

11 GARY D. FAIR,

DOCKET

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. NDOC 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 Gary Fair

25 In Proper Person

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RECEIVED
MAY 11 2018
CLERK OF THE COURT

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HELLO,

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

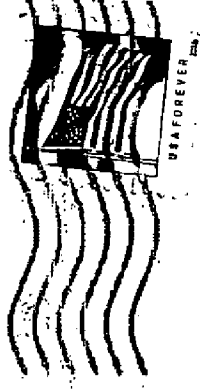
PLEASE REFILE my APPEAL.

THANKS FOR your time.

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

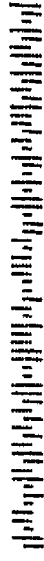
LAS VEGAS NV 890

09 MAY 2018 PM 3 L



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

89101-630000





1 ASTA

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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 cc: Gary Fair
27
28

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-17-764995-W

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

§
§
§
§
§
§

Location: **Department 7**
Judicial Officer: **Bell, Linda Marie**
Filed on: **11/21/2017**
Cross-Reference Case Number: **A764995**
Supreme Court No.: **75487**

CASE INFORMATION

Case Type: **Writ of Habeas Corpus**
Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-17-764995-W
Court Department 7
Date Assigned 11/21/2017
Judicial Officer Bell, Linda Marie

PARTY INFORMATION

Plaintiff **Fair, Gary Derrick**

Lead Attorneys

Pro Se









Defendant **Williams, Brian**

Balducci, Ashley, ESQ
Retained
702-486-3086(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

11/21/2017	 Inmate Filed - Petition for Writ of Habeas Corpus <i>Inmate Filed - Petition for Writ of Habeas Corpus</i>	
01/16/2018	 Order for Petition for Writ of Habeas Corpus <i>Order for Petition for Writ of Habeas Corpus</i>	
02/23/2018	 Response Filed by: Defendant Williams, Brian <i>Response to Petition for Writ of Habeas Corpus</i>	
02/27/2018	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Bell, Linda Marie) 02/27/2018, 03/01/2018	
03/26/2018	 Notice of Appeal <i>Notice of Appeal</i>	
03/28/2018	 Case Appeal Statement <i>Case Appeal Statement</i>	
05/02/2018	 Decision and Order <i>Decision and Order</i>	
05/03/2018	 Notice of Entry of Order	

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-17-764995-W

Notice of Entry of Order

05/11/2018



Notice of Appeal

Filed By: Plaintiff Fair, Gary Derrick

Notice of Appeal

05/15/2018



Case Appeal Statement

Case Appeal Statement

A-17-764995-W

54

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Gary Derrick Faye
 #90314
 PO Box 60
 Indian Springs NV 89070

Defendant(s) (name/address/phone):

Brian W. Hennes
 warden

Attorney (name/address/phone):

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

Real Property

Landlord/Tenant

- ☐ Unlawful Detainer
☐ Other Landlord/Tenant

Title to Property

- ☐ Judicial Foreclosure
☐ Other Title to Property

Other Real Property

- ☐ Condemnation/Eminent Domain
☐ Other Real Property

Probate

Probate (select case type and estate value)

- ☐ Summary Administration
☐ General Administration
☐ Special Administration
☐ Set Aside
☐ Trust/Conservatorship
☐ Other Probate
- Estate Value**
- ☐ Over \$200,000
☐ Between \$100,000 and \$200,000
☐ Under \$100,000 or Unknown
☐ Under \$2,500

Negligence

- ☐ Auto
☐ Premises Liability
☐ Other Negligence

Malpractice

- ☐ Medical/Dental
☐ Legal
☐ Accounting
☐ Other Malpractice

Construction Defect & Contract

Construction Defect

- ☐ Chapter 40
☐ Other Construction Defect

Contract Case

- ☐ Uniform Commercial Code
☐ Building and Construction
☐ Insurance Carrier
☐ Commercial Instrument
☐ Collection of Accounts
☐ Employment Contract
☐ Other Contract

Torts

Other Torts

- ☐ Product Liability
☐ Intentional Misconduct
☐ Employment Tort
☐ Insurance Tort
☐ Other Tort

Judicial Review/Appeal

Judicial Review

- ☐ Foreclosure Mediation Case
☐ Petition to Seal Records
☐ Mental Competency

Nevada State Agency Appeal

- ☐ Department of Motor Vehicle
☐ Worker's Compensation
☐ Other Nevada State Agency

Appeal Other

- ☐ Appeal from Lower Court
☐ Other Judicial Review/Appeal

Civil Writ

Civil Writ

- ☒ Writ of Habeas Corpus
☐ Writ of Mandamus
☐ Writ of Quo Warrant

- ☐ Writ of Prohibition
☐ Other Civil Writ

Other Civil Filing

Other Civil Filing

- ☐ Compromise of Minor's Claim
☐ Foreign Judgment
☐ Other Civil Matters

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

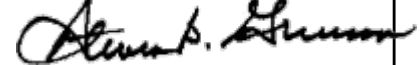
PREPARED BY CLERK

Date

NOV 20 2017

Signature of initiating party or representative

See other side for family-related case filings.



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

LINDA 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.

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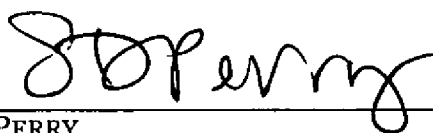
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CERTIFICATE OF SERVICE

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

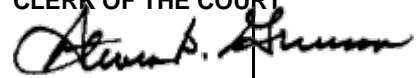
Pursuant to NRS 239B.030

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

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



NEOJ

**DISTRICT COURT
CLARK COUNTY, NEVADA**

GARY FAIR,

Petitioner,

Case No: A-17-764995-W

Dept. No: VII

vs.

BRIAN WILLIAMS,

Respondent,

NOTICE OF ENTRY OF ORDER

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.

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

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

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

☒ By e-mail:

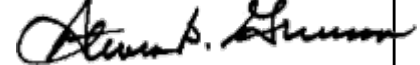
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

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

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



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
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RECEIVED

MAY 02 2018

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

CLERK OF THE COURT

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2 decision in Williams does not apply. Therefore, the Court will be applying the current form of NRS
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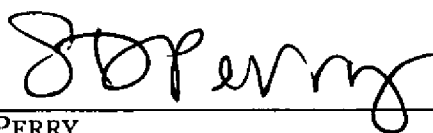
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CERTIFICATE OF SERVICE

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

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

**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

**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.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

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

DATE: May 15, 2018
CASE: A-17-764995-W

RE CASE: GARY DERRICK FAIR vs. BRIAN WILLIAMS {WARDEN}

NOTICE OF APPEAL FILED: May 11, 2018

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

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; DECISION AND ORDER; NOTICE OF ENTRY OF
ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

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 15 day of May 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk