

original

IN THE SUPREME COURT OF THE STATE OF NEVADA

Lailoni DeAndre Morrison  
Appellant,

vs.

Brian S. Williams - Warden  
Respondent.

Supreme Court No. 70618

District Court No. C175914

**FILED**

NOV 03 2016

APPELLANT'S INFORMAL BRIEF

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY [Signature]  
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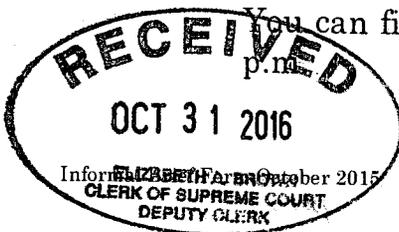
**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may file your brief in person or by mail.

To file your brief in person: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, or at the Regional Justice Center Clerk's Office (Drop Box), 200 Lewis Street, 17th Floor, Las Vegas, Nevada.

You can file your brief Monday through Friday, 8:00 a.m. to 4:00 p.m.



16-34264

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

**CAUTION:** Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
03/03/2016	Writ of habeas Corpus

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: May 23, 2016

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
C175914	Writ of habeas Corpus	Eight Judicial

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

Yes       No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

Petitioner Lailoni DeAndre Morrison states that Jury Instruction given by the Eight Judicial District and the state of Nevada in his Jury conviction trial on second degree murder made his conviction unconstitutional Per se. On or about June 6, 2002, Petitioner MORRISON was found guilty by Clark Jury on charges of second degree murder, A category Felony under NRS 200.010; 200.030; and NRS 193.165

Petitioner Morrison at the age of 27 years old, who had various prior criminal history as a juvenile with extensive background of possession of controlled substance and his use of Marijuana "Mary" have lead to this questionable incident on March 3, 2001. The records demonstrates that Petitioner never seek any professional drug counseling for his abusiveness of marijuana other than a onetime drug court program which he fail to comply with the Directives of that program. Petitioner Morrison may well have been the victim of an emotional agitation which creates a reasonable doubt as to whether the second Degree Murder was committed with intent, As well as deliberation or premeditation per the states Jury Instruction. Petitioner's Jury Instructions constitutes a serious due process Violation under state and federal laws Per Nevada supreme court rules state that where the Jury is given erroneous Jury Instructions on second Degree murder Violates Due Process of law Warranting A Judgment of reversal as petitioner's case.

Ground TWO<sup>10</sup> Petitioner Kailoni DeAndre Morrison alleges that the states Jury Instruction on or about 6/9/2002 was unconstitutional because the states failures to define intent deliberation as a part of premeditation rather than a separate element. Petitioner Kailoni DeAndre Morrison, on July 25, 2002, was given TWO (2) 10 to life sentences for second Degree Murder with eligibility for parole after a minimum of 10 years has been served petitioner Morrison states the improper Instruction given to the Jury denied him due process of law which clearly established under federal law that Jury Instructions must be considered in <sup>the</sup> context of the Instruction as a whole

and the trial records. The ninth circuit court of appeals in case "Billy Ray Rilely" reverse and remand due to one particular guilt phase instruction given at his trial violated process rights by advising the jury that if it finds "premeditation" it has necessarily found deliberation. Petitioner Morrison suffers the identical violation as Riley. However, if a jury is given two theories upon which they can convict the defendant and one of those theories is wrong then it's obvious that petitioner Morrison like "Riley" suffered prejudiced and was denied his fundamental due process rights to a fair trial because of the incorrect instruction. This violation under state and federal law does require his convictions to be set aside. Also see Pike v. Sandoval (503 F.3d 903) (9th Cir 2007) where incorrect jury instruction on "Intent" was a error then petitioner Morrison was prejudiced.

**Statement of District Court Error.** Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

Petitioner Lailoni Deandre Morrison alleges that Jury Instruction No 25 second degree murder with use of a deadly weapon is inappropriate because no weapon nor DNA forensic testing connected him to any weapon warrants dismissal. The element of intent and use of a deadly weapon "must" under federal law given it's true ordinary black's law dictionary meaning so that the jury could see that the petitioner Morrison lacked the capacity to deliberate and premeditate with intent a crime without the without the use of a deadly weapon.

Petitioner states that the only challenged the state will argue is procedurally

barred which denying petitioner's writ on solely on procedural grounds would work to a fundamental miscarriage of Justice" (State vs. Bennett, 119 NEV. 589, 81 P. 3d 1 (2003)); the Nevada supreme court found that application of procedural bars to preclude consideration of the defendant's habeas claim would result in a fundamental miscarriage of Justice. NRS 34.72(1); NRS 34.810; and NRS 34.800. See Mitchell vs. State, 122 NEV. 1249, 149 P. 3rd, 33. Petitioner Morrison states this petition has good cause to file his new writ because it involves the filing of a writ of habeas corpus after a significant substantive change in the law - as in this present case. Petitioner's convictions must be vacated and set-aside with the appointment of a new trial or as an alternative "Time served with no parole after release is granted. No life-time Parole."

N/A

N/A

N/A

N/A

DATED this 25<sup>th</sup> day of May, 2016.

Lailoni D. Morrison  
Signature of Appellant

Lailoni D. Morrison  
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- By personally serving it upon him/her; or
- By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

DATED this 25 day of May, 2016.

Lailani D. Morrison  
Signature of Appellant

Lailani D. Morrison  
Print Name of Appellant

SDCC Po. Box 208  
Address

Indian Springs, NV 89070  
City/State/Zip

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Telephone