

1 STEVEN FLOYD VOSS #52094
2 Northern Nevada Corrections Center
3 Post Office Box #7000
4 Carson City, Nevada 89702-7000
5

6 IN THE COURT OF APPEALS OF THE STATE OF NEVADA
7

8 STEVEN FLOYD VOSS,
9 Petitioner,
10 VS.

No. 74227

11 THE SECOND JUDICIAL DISTRICT
12 COURT OF THE STATE OF NEVADA,
13 IN AND FOR THE COUNTY OF WASHOE,
14 Respondent,
15 and,
16 THE STATE OF NEVADA,
17 Real Party In Interest.
18

FILED

MAR 01 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

19
20 MOTION FOR ORDER DIRECTING THE STATE TO FILE A RETURN,
21 SPECIFYING THE TRUE CAUSE OF THE PETITIONER'S RESTRAINT
22

23 COMES NOW Petitioner, STEVEN FLOYD VOSS, by and through
24 his proper person, and hereby submits the instant Motion
25 The instant Motion is made and predicated upon
26 the attached memorandum of points and authorities
27 and all papers and pleadings on file in the above
28 entitled action.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 I. Nature of Motion:
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5 Through the instant Motion the Petitioner moves
6 the Court for the issuance of an ORDER DIRECTING THE
7 STATE TO FILE A RETURN to the Petitioner's instant
8 Petition For Extraordinary Relief Writ, which specifies
9 the true cause of the Petitioner's present restraint
10 by the State of Nevada.
11

12 II. Argument:
13

14 The state's filing of a Return to the
15 instant Petition specifying the true cause of the
16 Petitioner's present restraint is necessary in the
17 premises of the instant Petition.
18

19 The Petitioner submits that the Court's
20 entry of an Order Directing The State To File A-
21 Return to the instant Petition, which specifies
22 the true cause of the Petitioner's restraint is
23 necessary in the premises of the instant Petition,
24 and will assist the Court in the disposition of the
25 instant Petition.

26 Whereas, the Petitioner is informed and he does
27 believe that the last of the decidedly "onrous" six
28 sentences imposed upon the Petitioner in the context of

1 Washoe County District Court, Case No. CR96-1581,
2 which are at the heart of the instant Petition;
3 were served to completion and discharge on February 26,
4 2018. However, departmental officials of the
5 Nevada Department of Corrections have refused to
6 provide the Petitioner with official written
7 documentation of such fact, such as a Certificate of
8 Discharge from the sentences imposed in Case No.
9 CR96-1581.

10 Clearly, in light of the circumstances involved,
11 including, (1) the fact that on August 14, 2001 the
12 District Court had entered a Writ of Habeas Corpus
13 entitling the Petitioner to receive a Re-sentencing
14 Proceeding and an Amended Judgment of Conviction
15 setting out new fair and proportionate sentences;
16 (2) the fact that since August 14, 2001 no Re-Sentencing
17 Proceeding has been conducted and no Amended Judgment
18 of Conviction has been entered, and the District Court's
19 November 27, 1996 Judgment of Conviction has not been
20 formally vacated; the issue of whether the Petitioner
21 remains under state restraint in regard to the
22 November 27, 1996 Judgment of Conviction is relevant
23 and material to the instant Petition and this Court's
24 disposition of same. Because, where the Petitioner
25 had on February 26, 2018 served each of the six
26 sentences imposed pursuant to the November 27, 1996
27 Judgment of Conviction to completion and discharge,
28 the District Court no longer maintains jurisdiction

1 to conduct Re-sentencing Proceedings pursuant
2 to that Court's August 14, 2001 Writ of Habeas Corpus,
3 or to enter an Amended Judgment of Conviction.
4 Nonetheless, pursuant to such August 14, 2001
5 Writ of Habeas Corpus the Petitioner is entitled to
6 receive relief from the November 27, 1996 Judgment of
7 Conviction and the decidedly "onerous" sentences
8 imposed upon him thereby. These facts create a
9 quandary and perplexity which must be resolved by
10 this Court. There clearly exists a conflict between the
11 Petitioner's state and Federal Due Process and Equal
12 Protection rights and the District Court's exercise of
13 jurisdiction and discretion, where, if true, the
14 Petitioner has served each of his decidedly "onerous"
15 sentences to completion. Whereas, absent jurisdiction
16 the District Court cannot afford the Petitioner the
17 Due Process of a Re-Sentencing Proceeding and the
18 entry of an Amended Judgment of Conviction setting
19 out fair and proportionate sentences in regard to
20 each of the six counts charged, as was contemplated
21 by the Post-Conviction Court in Case No. CR96-P-1581.
22 The absence of jurisdiction effected by the
23 Court's failure to conduct a Re-Sentencing Proceeding,
24 without unreasonable delay, required pursuant to
25 NRS 176.015, does not diminish or vitiate the Petitioner's
26 Due Process and Equal Protection rights to receive the
27 relief granted him by the Post-Conviction Court, and
28 where such relief is no longer available due to the

1 District Court's demur, the Petitioner is entitled
2 to receive other equitable relief. The only
3 equitable relief still available where the Petitioner
4 has served his six decidedly "onerous" sentences
5 to completion and discharge, thereby divesting the
6 District Court of jurisdiction; is to vacate the
7 November 27, 1996 Judgment of Conviction with prejudice,
8 and to finally dispose of the prosecution by the
9 entry of a Judgment of Acquittal allowing the
10 Petitioner to avail himself to a plea of former
11 jeopardy should the need to do so ever arise.

12

13 III. Verification:

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15 Under penalty of perjury, I STEVEN FLOYD VOSS,
16 do hereby verify that I have read the content of
17 the foregoing Motion, and that same is true and
18 correct of my own personal information, knowledge
19 and belief.

20

21 The foregoing Motion does not contain the
22 personal information or social security number of
23 any person.

24

DATED this 27th day of February 2018.

25

By: 

26

STEVEN FLOYD VOSS,

27

Petitioner, in pro. per.

28

29

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that
on this 27th day of February 2018, that I mailed
a true and correct copy of the foregoing Motion,
addressed to:

TERRENCE P. MCCARTHY, Esq. (DDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada, 89520-0027

By: 

STEVEN FLOYD VOSS

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