

STEVEN FLOYD VOSS # 52094
High Desert State Prison
Post Office Box # 650
Indian Springs, Nevada 89070 -

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,

VS.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
Respondent.

No. 74227

FILED

SEP 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

(EMERGENCY MOTION)

MOTION TO STAY WRIT OF MANDAMUS

COMES NOW Petitioner, STEVEN FLOYD VOSS,
by and through his proper person, and
hereby submits the instant (Emergency)
Motion.

The instant (Emergency) Motion is
made and predicated upon the attached
memorandum of points and authorities.

RECEIVED

SEP 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

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18-902152

MEMORANDUM OF POINTS AND AUTHORITIES

I. Nature of Motion:

Through the Instant Motion, the Petitioner seeks a STAY of this Court's August 15, 2018 Writ of Mandamus, entered in the above entitled case. In the pendency of his Petition For Rehearing filed in the instant case on or about August 27, 2018,

II. Argument:

A stay of this Court's August 15, 2018 Writ of Mandamus is warranted, in the pendency of the Appellant's Petition For Rehearing.

On August 15, 2018 this Court had entered an Order Granting Petition (Docket, at Page 18-901833), which Ordered that a Writ of Mandamus be entered, directing the District Court to conduct resentencing proceedings relative to Case No. CR96-1581; and a Writ of Mandamus was entered that day.

However, on March 4, 2018 the Petitioner had served to completion and discharge by the Nevada Department of Corrections, each of the Six (6) sentences imposed via the District Court's original November 27, 1996 Judgment of Conviction. The Petitioner had informed this Court of such fact within his Request For Judicial Notice of Material Facts, which was accompanied by his Motion For Order Directing The State To File A Return, Specifying The True Cause of The Petitioner's restraint.

This Court apparently overlooking both the Petitioner's Request For Judicial Notice and his Motion For Order Directing The State To File A Return. Thus, the Petitioner within his Petition For Rehearing asserts that this Court had overlooked or misapprehended material facts when rendering its Order Granting Petition.

On August 29, 2018 the District Court in response to this Court's August 15, 2018 Writ of Habeas Corpus, had entered an Order For Resentencing. Pursuant to the District Court's aforementioned Order, resentencing proceedings are presently scheduled for November 26, 2018.

Therefore, the Petitioner submits

that the intervention of this Court, at this juncture, are manifestly necessary to prevent a fundamental miscarriage of justice from occurring. Whereas, the Petitioner submits that the District Court no longer maintains either personal or subject-matter jurisdiction, to conduct resentencing proceedings and to draw the Petitioner into that Court's adjudicative means, or to enter an Amended Judgment of Conviction, subsequent to the Petitioners serving to completion and discharge on March 4, 2018 each of the six (6) sentences imposed upon him pursuant to the District Court's original November 27, 1996 Judgment of Conviction. Such 1996 Judgment of Conviction which was not vacated subsequent to the District Court's August 9, 2001 Writ of Habeas Corpus, and which was not recognized to be an invalid Judgment of Conviction, until this Court's entry of its August 15, 2018 Order Granting Petition.

Thus, the Petitioner alleges that it would constitute an ultra vires action by the District Court to conduct resentencing proceedings or to enter an

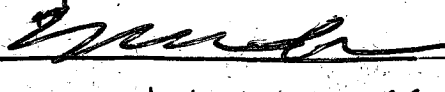
Amended Judgment of Conviction relative to Case No. CR96-1581, and any such action by the District Court would necessarily be with want of jurisdiction, rendering any such Resentencing proceeding and Amended Judgment of Conviction, Coram non iudice and void.

Thus, a STAY of this Court's August 15, 2018 Writ of Mandamus is warranted, to prevent a fundamental miscarriage of justice by the District Court.

III. Verification

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

DATED this 17th day of September 2018

By: 

STEVEN FLOYD VOSS

Petitioner, in pro, per,