

NEVADA SUPREME COURT

FILED

AUG 09 2018

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

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JOEL BURKETT

PETITIONER

VS.

EIGHTH JUDICIAL DISTRICT
COURT, CLARK COUNTY,

RESPONDENT

SUPREME COURT NO.

DIST. COURT NO. 81C052190

ALTERNATIVE WRIT OF

MANDAMUS

COMES NOW, PETITIONER, JOEL BURKETT, PROPER
AND RESPECTFULLY MOOTS THIS HONORABLE
COURT TO ISSUE AN ALTERNATIVE PETITION
FOR WRIT OF MANDAMUS, BEING FILED
CONTEMPORANEOUSLY HERewith, DIRECTING
THE EIGHTH JUDICIAL DISTRICT COURT TO
ISSUE AN ORDER IN THE MATTER OF
THE STATE OF NEVADA V. JOEL BURKETT
DIST. COURT NO. 81C052190 OR TO COME FOR ON
A DAY FIXED BY THIS COURT TO SHOW
CAUSE WHY SHE HAS NOT DONE SO.
THIS MOTION IS MADE AND BASED UPON
N.R.S. 34.150 THROUGH N.R.S. 34.110
N.R.A.P. RULE 12 AND ALL OTHER PAPERS,
PLEADINGS AND DOCUMENTS ON FILE

RECEIVED
AUG 03 2018
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

STATEMENT OF FACTS

1. MON 12, 7, 2015 BURKEIT FILED A PETITION FOR
2. WRIT OF HABEAS CORPUS IN THE SEVENTH
3. JUDICIAL DISTRICT COURT CHAMBERLAIN NEV.
4. DEPT OF CORRECTIONS WAS INCORRECTLY
5. CALCULATION HIS SENTENCES.
6. (2) ON 4, 4, 2016, THE COURT ISSUED AN ORDER
7. TRANSFERRING VENUE OF THE PETITION FOR
8. WRIT OF HABEAS CORPUS TO THE EIGHTH
9. JUDICIAL DISTRICT COURT.
10. (3) THAT COURT DISMISSED THE PETITION
11. ON 10, 16, 2016
12. (4) ON 11, 9, 2016 BURKEIT APPEALED TO
13. THE NEVADA COURT OF APPEALS.
14. (5) ON 8, 14, 2017 THE NEVADA SUPREME
15. COURT CLERK IS AN ORDER OF REVERSAL
16. AND REMAND.
17. (6) ON 12, 6, 17 THE EIGHTH JUDICIAL DISTRICT
18. COURT FOLLOWING THE ORDER OF REVERSAL
19. AND REMAND TRANSFERRED THE PETITION
20. BACK TO THE SEVENTH JUDICIAL DISTRICT
21. COURT.
22. (7) ON 11, 28, 2017 THE SEVENTH JUDICIAL
23. DISTRICT COURT TRANSFERRED VENUE
24. BACK TO THE EIGHTH JUDICIAL DISTRICT
25. COURT

1. (8) ON Jan, 18th 2018 BURKETT APPEARED
2. BEFORE THE EIGHTH JUDICIAL DISTRICT
3. COURT, HE AGAIN APPEARED ON Feb, 20th, 2018
4.

5.
6. (9) TO DATE THE EIGHTH JUDICIAL DISTRICT
7. COURT HAS FAILED OR REFUSED TO ISSUE
8. AN ORDER

9. (10) ON 6, 14, 2018, BURKETT PUT THE
10. COURT ON NOTICE IF AN ORDER WAS NOT
11. ISSUED WITHIN 45 DAY THEREOF HE
12. WOULD SEEK A MANDAMUS TO THE
13. NEVADA SUPREME COURT TO GET THAT
14. ORDER,

15. (11) TO DATE THE EIGHTH JUDICIAL DISTRICT
16. COURT HAS NOT ISSUED AN ORDER, WITHOUT
17. WHICH BURKETT CANNOT PROCEED IN
18. THE SEVENTH JUDICIAL DISTRICT COURT,

19. (12) BURKETT IS TO APPEAR BEFORE
20. THE NEVADA PAROLE BOARD AT THE
21. END OF 2018 AND OR FIRST OF 2019,

22. (13) THE PAROLE BOARD ALREADY KNOWS
23. THE N.D.C.C. IS MISCALCULATING
24. BURKETT'S SENTENCE, AND WILL NOT
25. PAROLE BURKETT NOT KNOWING
26. WHAT THEY ARE PAROLING HIM TO.
27.

II. Legal Argument

1
2 PETITIONS FOR EXTRAORDINARY WRITS ARE
3 ADDRESSED TO THE SOUND DISCRETION OF
4 THE NEVADA SUPREME COURT AND MAY ISSUE
5 WHEN THERE IS NO PLAIN, SPEEDY, AND
6 ADEQUATE REMEDY AT LAW SEE, STATE V.
7 SECOND JUDICIAL DIST. COURT ex REL, COUNTY
8 OF WASHOE, 11 P.3D 1209, NEV. (2000)

9
10 AS STATED ABOVE, PETITIONER MOVED THE
11 DISTRICT COURT PURSUANT TO THE DISTRICT
12 COURT RULE 15. AS WELL AS NRS. 34.240
13 TO ISSUE AN ORDER IN HIS PENDING
14 MATTER.

15 TO DATE BURKEIT, PETITIONER HAS NEVER
16 RECEIVED AN ORDER FROM THE COURT
17 UPON THAT, WHICH BURKEIT CANNOT
18 PROCEED IN THE SECOND JUDICIAL
19 DISTRICT COURT TO RECEIVE A
20 RULING ON HIS WRIT PENDING
21 BEFORE THAT COURT IN THE MATTER
22 OF JOEL BURKEIT V. RENE BAKER, WARDEN
23 DO. COURT NO. HC-1512012

24
25 TO DATE BURKEIT HAS SPENT (3)
26 YEARS JUST TRYING TO GET A
27

1. COURT TO TELL THE NEW DEPT OF
2. CORRECTIONS WHAT PETITIONERS
3. JUDGMENT OF CONVICTION SHOULD
4. CAPTAIN. SO HE CAN GET A FAIR
5. PAROLE HEARING.
6. NOW WITH PETITIONERS PAROLE HEARING
7. HEARING NEAR HE NEEDS THE
8. EVIDENCE CORRECTED BEFORE THAT
9. HEARING, ON 2-1-19

10. THE SEVENTH JUDICIAL DISTRICT
11. COURT JUST ASK THE EIGHTH
12. JUDICIAL DISTRICT COURT TO CLARIFY
13. THE JUDGMENT OF CONVICTION
14.

15. THE MANDAMUS SHOULD ISSUE
16.

17. WRIT OF MANDAMUS IS AVAILABLE TO
18. COMPEL THE PERFORMANCE OF AN ACT
19. WHICH THE LAW REQUIRES AS A
20. DUTY RESULTING FROM AN OFFICE, TRUST
21. OR STATION, OR TO CONTROL AN
22. ARBITRARY OR CAPRICIOUS EXERCISE
23. OR DISCRETION. MAYO V. EIGHTH
24. JUDICIAL DIST. COURT, EX. REC. CLARK COUNTY,
25. 901 P.2D 639, 111 N.W. 1172 (NEV. 1995)

1 THE ACTION BEING SOUGHT TO BE
2 COMPELLED MUST BE ONE ALREADY
3 REQUIRED BY LAW. SEE, MUSKEL COUNTY
4 V. STATE DEPT. OF CONSERVATION AND
5 NATURAL RESOURCES 20 P.30 800 N.W.
6 (2001)

7 N.R.S. 34.830 REQUIRES THE DISTRICT
8 COURT JUDGES TO MAKE A DECISION OR
9 ORDER DISPOSING OF A PETITION THE
10 SEVENTH JUDICIAL DISTRICT COURT
11 SIMPLY REQUESTED CLARIFICATION AS TO
12 PETITIONERS JUDGMENT OF CONVICTION
13 BY THE EIGHTH JUDICIAL DISTRICT COURT
14 THE JUDGE, MICHAEL BEAULT, HAS
15 FAILED OR REFUSED TO DO SO IN OVER
16 SEVEN MONTHS. BECAUSE PETITIONER
17 CANNOT MAKE FORWARD IN THE SEVENTH
18 JUDICIAL DISTRICT COURT IN CASE NO.
19 HC-1512012 WITHOUT THE EIGHTH
20 JUDICIAL DISTRICT COURT'S ORDER IN THE
21 ABOVE MATTER AND BECAUSE PETITIONER
22 WILL BE PREJUDICED IF FORCED TO
23 APPEAR BEFORE THE NEVADA PAROLE
24 BOARD WITH HIS SENTENCES
25 MISCALCULATED BY THE NEV.
26 DEPT. OF CORRECTIONS

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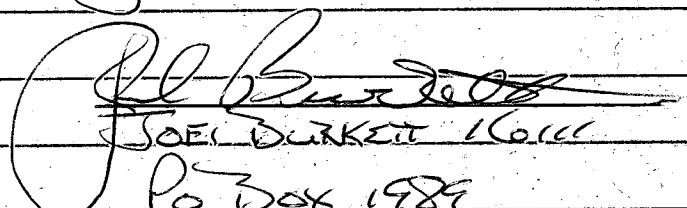
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1 Mandamus Should Issue Wherefore
2 Petitioner Has no other "Adequate
3 and Speedy Legal Remedy Available,
4 Such as a 1983 Civil Action, Pan v.
5 District 120 NEU 222, 88 P.3d 840
6 (NEU 2004); Tamayo v. State 245 P.3d 560
7 (NEU 2010). Clearly, Petitioner Can't
8 File a Civil Action Against The
9 District Court Judge in this
10 Matter, Petitioner is Mindful, Justice
11 Delayed is Justice Denied.

12 Conclusion

13
14 Petitioner, Joel Burkett, Respectfully
15 Submits That He is Entitled
16 To The Relief Requested Herein
17 Thus, Mandamus Should Issue.

18
19 DATED THIS 15TH DAY OF AUGUST (2018)

20
21 
22 JOEL BURKETT 16111
23 P.O. BOX 1985
24 ELY, NV 89301
25
26
27
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DECLARATION PURSUANT TO: N.R.S. 208.165

I, JOEL BURKETT, OF INMATE IDENTIFICATION
NUMBER: 16111, AM A LAWFULLY
COMMITTED PRISONER OF THE NEVADA DEPARTMENT OF
CORRECTIONS, PRESENTLY IN THE LAWFUL CARE AND
CUSTODY OF ELY STATE PRISON, LOCATED AT: 12000 NORTH
BOTHWICK ROAD, (MAILING) P.O. BOX 1989, IN CITY OF: ELY,
COUNTY: WHITE PINE, STATE: NEVADA, 89301. DOES AFFIRM
THAT THE ATTACHED DOCUMENT
ENTITLED: ALTERNATIVE WRIT OF Habeas Corpus,
IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE &
BELIEF, AND ANY FALSE STATEMENT OF MATERIAL FACT
MADE THERE IN SHALL BE SUBJECTED TO THE PAINS AND
PENALTIES OF PERJURY PURSUANT TO: N.R.S. 208.165,
THIS, 15 DAY OF: AUGUST, 2018.

INMATE SIGNATURE: Joel Burkett

INMATE NAME (PRINTED): JOEL BURKETT

ADDRESS: ELY STATE PRISON

P.O. BOX 1989, ELY, NEVADA 89301

AFFIRMATION PURSUANT TO NRS 239B.030

I, JOEL BURKE, NDOC# 1611,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE

ATTACHED DOCUMENT ENTITLED ALTERNATIVE WRIT OF

Habeas Corpus

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY

PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 15 DAY OF AUGUST, 2018.

SIGNATURE: Joel Burke

INMATE PRINTED NAME: JOEL BURKE

INMATE NDOC # 1611

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

CERTIFICATE OF SERVICE BY MAIL

I, JOEL BURKE, hereby certify pursuant to N.R.C.P. 5(b), that on this 15th day of the month of August, of the year 2008, I mailed a true and correct copy of the foregoing ALTERNATIVE WRIT OF HABEAS CORPUS addressed to:

Essex Ind. Dist.
Name

Name

Name

200 Lewis Ave
3rd Floor

Lawrence, MO 64501-2212
Address

Address

Address

Joel Burke
Signature