



SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
ELIZABETH A. BROWN, CLERK
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CARSON CITY, NEVADA 89701-4702

Telephone
(775) 684-1600

July 17, 2019

James H. Hayes #1175077
High Desert State Prison
PO Box 650
Indian Springs, NV 89018

Re: HAYES, JR. (JAMES) VS. STATE, Supreme Court Case No. 78590

Dear Mr. Hayes:

We are returning, unfiled, your "Memorandum to the Court" received in this office on July 15, 2019 in the above Supreme Court case number. You are represented by an attorney in this appeal. Because of this, we can only file documents from your attorney. Please contact your attorney with any further questions or concerns you may have regarding your appeal.

Please do not resubmit these documents to the Supreme Court as no action will be taken on them.

Sincerely,

J. Hendricks
Deputy Clerk

19-30258

Supreme Court of the State of Nevada

RETURNED
UNFILED

AFFIDAVIT OF Memorandum to the Court

STATE OF NEVADA)

COUNTY OF CLARK)

ss: Fast Track Criminal Appeal

JUL 17 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY DEPUTY CLERK

TO WHOM IT MAY CONCERN:

I, James W. Hayes, the undersigned, do hereby swear that all the following statements and description of events, are true and correct, of my own knowledge, information, and belief, and to those I believe to be true and correct. Signed under penalty of perjury pursuant to NRS 208.165.

(1) THAT, James Hayes is the Affiant in this Affidavit and is currently incarcerated at High Desert State Prison.

Comes Now, Appellant in a "Memorandum to the Court" to show cause that counsel, Michael W. Janoff has failed to raise material issues and arguments in his Fast track statement and has failed to be accurate in stating the facts:

Whereas, in his prepared statement (Page 3 at 22-27) at 17 "Pending and Prior proceedings in this Court" should include the following Supreme Court case Numbers 73436, 75173, 77151, and 78622 for filed writ of habeas corpus and writ of prohibition; at 18 (page 4 at 1-8) "Pending and prior proceedings in other courts" should include writs of habeas corpus, A-19-793315-W, 8th Jud. District Court, Department 19 and Exclude State of Nevada v. James Hayes, C-19-338412-1, Dept 19, 8th Jud. Dist Court as that case has been dismissed.

Whereas, the State of Nevada, Clark County knowingly and voluntarily filed a fraudulent unconstitutional and false information in open court to deprive and

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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

1 misled the appellant to his prejudice and its un-
2 conscionable for the state to attempt to insulate a conviction
3 from collateral constitutional review by conditioning its
4 willingness to enter into fraudulent plea negotiations on a
5 appellant's waiver of the right to pursue a direct appeal.

6 WHEREAS, the GPA was violative of constitutional safe-
7 guards and NRS 174.085(3)(5A) violation when the charge
8 of Attempt Grand Larceny was dismissed at the conclusion
9 of the preliminary hearing in Justice Court for lack of
10 evidence, no corpus delicti, slight or marginal evidence to
11 proceed to District Court leaving no subject matter jurisdiction
12 for District Court.

13 WHEREAS, there was no transportation to support the At. Gro.
14 Larceny charge and this mistake of fact worked to the
15 extreme detriment of the appellant. As the guilty plea was the
16 product of ignorance that was discovered after judgment
17 and now the appellant stands convicted of a crime he did
18 not commit. When in fact, the character of the material
19 evidence in the Amended Information and Guilty Plea
20 Agreement is false, and the proceedings was constitutionally
21 inadequate. (SEE ENCLOSED EXHIBITS 7 and 8)

22 FURTHER, AFFIANT SAYETH NAUGHT.

23 EXECUTED AT High Desert State Prison this 8 day of July 2019

24 IN FRONT OF: Under Penalty of Perjury

BY James H. Hayes
NDOC # 1175077

25 I, James Hayes, certify, declare, or state that
26 the foregoing is true and correct, to the best
27 of my knowledge and belief, in accordance
28 with NRS 208.165 and 28 USC § 1746.

7-8-2019

James H. Hayes

1 whereas, even if the state alleged contentions
2 were true that petitioner "waived all constitutional
3 claims based on events occurring prior to the entry
4 of the plea" that would not satisfy the violation
5 of substantial rights that occurred after plea.
6 What is fact, petitioner was rebroked on the
7 charge of Attempt Grand Larceny on February 4,
8 2019 ~~to~~ once again violate petitioner's constitutional
9 rights and NRS 174.085(3)(5A) violation as the
10 guilty plea was entered on November 7, 2018
11 well before the rebrook on the charge of Attempt
12 Grand Larceny that was barred from District
13 Court proceedings. So it is without contention
14 that the state knowingly violated petitioner's
15 substantial rights and no colorable argument
16 that would allow them to overcome this
17 manifest injustice.

18
19 NRS 174.085(3) provides: "When the defendant is
20 convicted or acquitted or has been once placed in
21 jeopardy upon an indictment, information or complaint
22 the conviction, acquittal or jeopardy is a bar to another
23 indictment, information, or complaint for the offense
24 charged in the former, or for an attempt to commit
25 the same, or for an offense necessarily included
26 therein, of which he might have been convicted under
27 that indictment, information or complaint"