

ORIGINAL TO Clerk

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6/15/2020 9:30 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

Christopher Blockson #50821

In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018

Electronically Filed
Jun 22 2020 04:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Clark

Plaintiff,
vs.
Defendant.

Case No. A-20-810466-W
Dept. No. 30
Docket _____

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
Christopher Blockson, in and through his proper person, hereby
appeals to the Supreme Court of Nevada from the ORDER denying and/or
dismissing the

Writ of Habeas Corpus (post conviction)

ruled on the 3th day of May, 20 20

Dated this 28 day of May, 20 20

RECEIVED

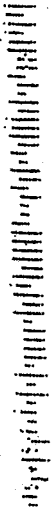
JUN 09 2020

CLERK OF THE COURT

Respectfully Submitted,

Christopher L Blockson

Christopher Blochson #50821
P.O. Box 208
Indian Springs, Nevada 89070



05

Steven Grierson, Clerk
Eight Judicial District Court
200 Lewis Ave 3rd Fl
Las Vegas, NV 89155



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 CHRISTOPHER BLOCKSON,

10 Plaintiff(s),

11 vs.

12
13 NEVADA DEPT. OF CORRECTIONS; JERRY
14 HOWELL WARDEN,

15 Defendant(s),

Case No: A-20-810466-W

Dept No: XXX

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Christopher Blockson

19 2. Judge: Jerry A. Wiese

20 3. Appellant(s): Christopher Blockson

21 Counsel:

22 Christopher Blockson #50821
23 P.O. Box 208
24 Indian Springs, NV 89070

25 4. Respondent (s): Nevada Dept. of Corrections; Jerry Howell Warden

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.

Las Vegas, NV 89155-2212

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: February 13, 2020

10. Brief Description of the Nature of the Action: Civil Writ

Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 16 day of June 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Christopher Blockson

Steven D. Grierson

Christopher Blockson, 50821

Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Clark

Christopher Blockson

Plaintiff,

vs.

Nevada Department of
Corrections and Jerry
Howell, warden

Defendant.

CASE No. A-20-810466-W
DEPT. No. 30

DESIGNATION OF RECORD ON APPEAL

TO: Steven Grierson, Clerk
Eight Judicial District Court
200 Lewis Ave 3rd Floor
Las Vegas, NV 89155

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 28th day of May, 2020.

RESPECTFULLY SUBMITTED BY:

Christopher L Blockson
Christopher Blockson # 50821
Plaintiff/In Propria Persona

1 ON February 13, 2020 I Filed a writ of Habeas Corpus
2 For post-conviction relief with the 8th Judicial
3 District Court Clark County, Nevada.

4 ON February 20, 2020 the judge ordered the
5 respondents to answer or otherwise respond to
6 petitioner's writ of Habeas Corpus within 45
7 days (see attached order).

8 The judge further ordered that I, petitioner, be
9 given the opportunity to reply to the respondent's
10 responsive pleading within 15 days of its filing.

11 On May 20, 2020 I received via U.S. mail
12 an order from the District Court for Summary
13 dismissal of my writ of Habeas Corpus. I was
14 further informed that I had 33 days in
15 which to file my Notice of appeal with the
16 Clerk of the District Court. (see order attached)

17 I was not given an opportunity to reply
18 to respondent's responsive pleading in which the
19 DA apparently Filed a motion for summary dismissal.
20 The DA never sent me a copy of their motion
21 to dismiss.

22 This is in violation of the 14th Amendment to
23 the United States Constitution; "Due process"
24 and "Equal protection of the laws."

1 It also violates the District Court's order that
2 I be allowed to respond and Nevada Revised
3 Statute 34.750(4).

4 I humbly ask the Supreme Court to
5 order the respondent's to provide petitioner
6 with a copy of their responsive pleading.

7 I further ask the Supreme Court to give
8 petitioner the opportunity to reply to respondent's
9 responsive pleading before this Court rules in
10 the matter.

11 Not allowing petitioner to respond to
12 respondent's responsive pleading would work
13 to petitioner's extreme detriment in the
14 fair resolution of petitioner's Writ of Habeas
15 Corpus.

16 I've been ignored and denied a copy of
17 respondent's responsive pleading by the same
18 DA, Amy Ferriera, on whom I alleged malicious
19 prosecution and abuse of power.

20 I declare under penalty of perjury that
21 the foregoing is true and correct to the best
22 of my knowledge and belief.

23
24 May 28, 2020

Christopher L. Blockson
Christopher Blockson, prose

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Blockson, hereby certify, pursuant to NRCP 5(b), that on this 28
day of May, 2020, I mailed a true and correct copy of the foregoing, "Notice of Appeal; writ of Habeas Corpus (post-conviction)"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Steven Griferson, Clerk
Eight Judicial District Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155

Steven B. Wolfson
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

CC:FILE

DATED: this 28 day of May, 2020.

Christopher L Blockson
Christopher Blockson # 50821
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 CHRISTOPHER BLOCKSON,

6 Petitioner,

7 V.

8 NEVADA DEPARTMENT OF
9 CORRECTION, JERRY HOWELL,
WARDEN,

10 Respondent.

Case No.: A-20-810466-W

Department: 30

11
12 **ORDER SETTING BRIEFING SCHEDULE AND HEARING**
13 **RE: PETITION FOR WRIT OF HABEAS CORPUS**

14 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on
15 February 13, 2020. The Court has reviewed the petition and has determined that a response
16 would assist the Court and, good cause appearing therefore,
17

18 IT IS HEREBY ORDERED that Respondent shall, within forty-five (45) days of
19 the date of this Order, answer or otherwise respond to the petition and file a return in
20 accordance with the provisions of NRS 34.360 to 34.830, inclusive.

21 IT IS FURTHER ORDERED that Petitioner shall, within fifteen (15) days of the
22 filing of an answer or response from the Respondent, be permitted to file a reply to
23 Respondent's responsive pleading.

24 IT IS FURTHER ORDERED that this matter shall be placed on this Court's
25 Calendar on 7th day of MAY, 2020, at 8:30 AM for further proceedings.

26
27 **DATED:** 2-20-20

28

DISTRICT JERRY A. WIESE II
DEPARTMENT 30

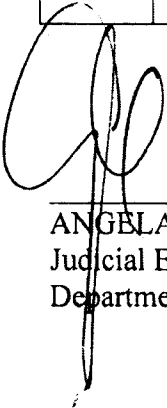
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3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on or about the date filed, a copy of the foregoing
5 was electronically served or served via US Mail as indicated to the following:

6

Served	Entity	Email/US Mail
X	PETITIONER	CHRISTOPHER BLOCKSON #50821 PO BOX 208, SDCC INDIAN SPRINGS, NEVADA 89070
X	RESPONDENT	STEVEN B. WOLFSON Clark County District Attorney Nevada Bar #001565 AMY FERREIRA Chief Deputy District Attorney Nevada Bar #010347 200 Lewis Avenue Las Vegas, Nevada 89155-2212
X	RESPONDENT	AARON FORD Nevada Attorney General 5420 Kietzke Lane #202 Reno, NV 89511

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19 ANGELA MCBRIDE
20 Judicial Executive Assistant
21 Department 24
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COPY

Electronically Filed
5/14/2020 2:13 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

NEOJ

DISTRICT COURT
CLARK COUNTY, NEVADA

CHRISTOPHER BLOCKSON,

Petitioner,

Case No: A-20-810466-W

Dept. No: XXX

vs.

NEVADA DEPARTMENT OF CORRECTION;
ET.AL.,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on May 5, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 14, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 14 day of May 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Christopher Blockson # 50821
P.O. Box 208
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-

Steven D. Grierson

CHRISTOPHER BLOCKSON,)
)
Petitioner,) CASE NO.: A-20-810466-W
) CASE NO.: A810466
) DEPT. NO.: XXX
vs.)
)
NEVADA DEPARTMENT OF)
CORRECTIONS AND JERRY)
HOWELL, WARDEN)
) ORDER
Respondent.)
)

INTRODUCTION.

The above-captioned matter is scheduled for hearing on Thursday, May 7, 2020, with regard to Petitioner's Petition for Writ of Habeas Corpus, and Motion for Appointment of Attorney. Pursuant to A.O. 20-01, and subsequent administrative orders of the Court, this matter is deemed "non-essential," and may be resolved after a hearing (held by alternative means), decided on the papers, or continued. The Court has determined that it would be appropriate to decide these matters on the papers, and consequently, this Order issues.

On 12/10/18, Christopher Blackson ("Petitioner") was charged in an Information in Case No. C336552 with: Count 1- Cruelty to Animals (Category D Felony- NRS 574.100.1a); Count 2- Ownership or Possession of Firearm by Prohibited Person (Category B Felony- NRS 202.360); and Count 3- Discharge of Firearm From or Within a Structure or Vehicle (Category B Felony- NRS 202.287).

Petitioner was represented by Michael Troiano at the trial level. Pursuant to a Guilty Plea Agreement (GPA) filed on 12/21/18, Petitioner pled guilty to one count of Cruelty to Animals and one count of Ownership or Possession of Firearm by Prohibited Person.

According to allegations contained in the Information, Petitioner pled guilty to willfully, unlawfully, maliciously and feloniously torturing, unjustifiably maiming or killing a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or failing to get medical treatment for said dog. He was also charged with willfully,

1

Voluntary Dismissal	<input checked="" type="checkbox"/>	Summary Judgment
Involuntary Dismissal	<input type="checkbox"/>	Stipulated Judgment
Stipulated Dismissal	<input type="checkbox"/>	Default Judgment
Motion to Dismiss by Deft(s)	<input type="checkbox"/>	Judgment of Arbitration

1 unlawfully, and feloniously owing, or having in his possession and/or under his custody
2 or control, a Ruger .357 revolver after being convicted in 1996 of Possession of
3 Controlled Substance with Intent to Sell, which is a felony under Nevada law.

4 When Mr. Blockson pled guilty, at the time of his arraignment, pursuant to the
5 GPA, he was canvassed in part as follows:

6 All right. Before I can accept your plea of guilty, I have to go through the
7 Information with you to make sure that there's a factual basis. It says on or
8 about the fourth day of April 2018 in Clark County, Nevada, contrary to the laws
9 of the State of Nevada, on Count One, you did willfully, unlawfully, maliciously
10 and feloniously torture or unjustifiably maim, mutilate or kill a Pitbull dog by
11 shooting or stabbing or cutting said dog and/or failing to get medical treatment
12 for said dog.

13 Count Two, ownership or possession of a firearm by a prohibited person, you did
14 willfully, unlawfully and feloniously own or have possession and/or under your
15 custody or control a firearm, to wit, a Ruger .357 revolver bearing serial number
16 575-15259, the Defendant being a convicted felon having in 1996 being -- been
17 convicted of possession of a controlled substance with intent to sell in case
18 C135719 in the Eighth Judicial Court, a felony under the laws of the State of
19 Nevada.

20 Did you do those things?

21 THE DEFENDANT: Yes, sir.

22 (See Transcript of Hearing, December 21, 2018, at pgs. 7-8)

23 Petitioner now contends that this case arose when his wife brought home a
24 rescue dog, which then attacked him.

25 On 04/16/19, Petitioner was sentenced to 19-48 months on Count 1; and 28-72
26 months on Count 2, to run consecutive to Count 1. Petitioner received an aggregate
27 sentence of 47 to 120 months with 74 days' credit for time served. The Court dismissed
28 Count 3. The Judgment of Conviction (JOC) was filed on 04/22/19.

29 Petitioner filed his Notice of Appeal on 05/02/19, and the Court appointed
30 counsel (Jason Makris) on 05/23/19. Petitioner filed a Notice of Withdrawal of his
31 appeal on 12/30/19, and the Supreme Court filed an Order Dismissing Appeal on
32 01/16/20 in Case No. 78731.

33 **LEGAL AND FACTUAL ANALYSIS.**

34 Petitioner now argues that the sentence in Count 1 is illegal, because the State
35 incorrectly alleged a violation of NRS 574.100(1)(a) was a felony, but Petitioner believes
36 he should have been found guilty of a misdemeanor under NRS 574.100(7)(a-b).
37 Consequently, he believes that his sentence of 19-48 months on Count 1 was illegal.

1 Because he believes the District Attorney misrepresented the charge, his GPA was not
2 signed knowingly, voluntarily, and intelligently. Petitioner also argues, however, that
3 he accepted his plea deal because it was better than facing habitual treatment, and
4 consequently, he did enter his plea knowingly and voluntarily, and does not wish to
5 withdraw his plea, either then or now.

6 Petitioner argues that Appellate Counsel, Jason Makris was ineffective, for
7 failing to read the statute and compare it to the charge, and that Makris withdrew the
8 appeal before Petitioner had a chance to speak to him.

9 Petitioner also argues that the state engaged in malicious prosecution and abuse
10 of power, by failing to correctly charge Petitioner, and by only giving him 10 minutes to
11 review and sign the GPA or face habitual treatment, and he was not given a copy of the
12 GPA.

13 ~~The State responds that the Petitioner's sentence is not facially illegal, he was~~
14 ~~not maliciously prosecuted, and he is not entitled to sentence modification.~~

15 The State acknowledges that A Court may correct an illegal sentence at any time.
16 *Passanisi v. State*, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). "A motion to correct
17 an illegal sentence is an appropriate vehicle for raising the claim that a sentence is
18 facially illegal at any time; such a motion cannot be used as a vehicle for challenging the
19 validity of a judgment of conviction or sentence based on alleged errors occurring at
20 trial or sentencing." *Edwards*, 112 Nev. at 708, 918 P.2d at 324. "Motions to correct
21 illegal sentences address only the facial legality of a sentence." Motions to correct illegal
22 sentences evaluate whether the sentence imposed on the defendant is "at variance with
23 the controlling statute, or illegal in the sense that the court goes beyond its authority by
24 acting without jurisdiction or imposing a sentence in excess of the statutory maximum
25 provided." *Id.* (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985)). The
26 State argues that a Petition for Writ of Habeas Corpus is not the appropriate vehicle for
27 Petitioner's claim, because NRS 34.810(1)(a) states that ***the Court must dismiss a***
28 ***petition if "[t]he petitioner's conviction was upon a plea of guilty*** or guilty
but mentally ill and the petition is not based upon an allegation that the plea was
involuntarily or unknowingly entered or that the plea was entered without effective
assistance of counsel." Here, Petitioner's conviction was based up on a plea of guilty.
(NRS 34.8910, emphasis added).

Do
motion
to correct
illegal
sentence

1 If the Court considers the merits of the Petition, with regard to Ground 1, it
2 appears that the Petitioner is misinterpreting NRS 574.100. NRS 574.100(6) states in
3 relevant part that a person who "willfully and maliciously" violates NRS 574.100(1)(a)
4 "is guilty of a category D felony." The Petitioner's argument that he was not charged
5 with a violation of NRS 574.100(1) is belied by the record, as the Information alleges
6 this violation, and indicates that he was being charged with the Category D felony
7 portion of the statute. The Court finds that the Information complies with NRS
8 173.075.

9 Petitioner appears to request a modification of his sentence, but in general, a
10 District Court lacks jurisdiction to modify a sentence once a Defendant has started
11 serving it. *Passanisi v. State*, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992) (overruled
12 on other grounds). A Court can correct a sentence if the Defendant can establish that
13 the sentence violates Due Process, and is based on a materially untrue assumption or
14 mistake of fact, that worked to the Defendant's extreme detriment. *Edwards v. State*,
15 112 Nev. 704, 707, 918 Pl2d 321, 324 (1996). Here, Petitioner's claim is without merit,
16 as he failed to demonstrate that he was maliciously prosecuted in violation of NRS
17 199.130. Plaintiff further indicates that he does not wish to withdraw his guilty plea. In
18 essence, Petitioner wants to receive the benefit of his GPA without serving the sentence
19 that he agreed to. This is inappropriate. *State v. Second Judicial Dist. Court in & for*
20 *Ctv. of Washoe*, 134 Nev. 384, 391, 21 P.3d 803, 808 (2018).

21 To prevail on a claim of ineffective assistance of trial counsel, a defendant must
22 prove he was denied "reasonably effective assistance" of counsel by satisfying the two-
23 prong test of *Strickland*, 466 U.S. at 686-87, 104 S. Ct. at 2063-64; *Love*, 109 Nev. at
24 1138, 865 P.2d at 323. Under the *Strickland* test, a defendant must show first that his,
25 counsel's representation fell below an objective standard of reasonableness, and
26 second, that but for counsel's errors, there is a reasonable probability that the result of
27 the proceedings would have been different. 466 U.S. at 687-88, 104 S. Ct. at 2065,
28 2068; *Warden, Nevada State Prison v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505
(1984) (adopting the *Strickland* two-part test).

The court begins with the presumption of effectiveness and then must determine
whether the defendant has demonstrated by a preponderance of the evidence that
counsel was ineffective. *Means v. State*, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004).

1 "Effective counsel does not mean errorless counsel, but rather counsel whose assistance
2 is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" *Jackson*
3 *v. Warden*, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975).

4 "A habeas corpus petitioner must prove the disputed factual allegations
5 underlying his ineffective-assistance claim by a preponderance of the evidence." *Means*
6 *v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore, claims of
7 ineffective assistance of counsel asserted in a petition for post-conviction relief must be
8 supported with specific factual allegations, which if true, would entitle the petitioner to
9 relief. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and
10 "naked" allegations are not sufficient, nor are those belied and repelled by the record.
11 *Id.* NRS 34.735(6).

12 Petitioner argues that counsel was ineffective for failing to argue that NRS
13 574.100(1)(a) is a misdemeanor, not a felony. The court has already held that such
14 argument has no merit. Petitioner argues that counsel was ineffective for depriving
15 him of his right to appeal, but Petitioner specifically alleges in his Memorandum that
16 he "wrote the Nevada Supreme Court expressing my desire to withdraw the direct
17 appeal." (Memo at pg. 2). Consequently, that argument is belied by the record. Finally,
18 Petitioner argues that his counsel was ineffective for failing to read his file, but that
19 claim is belied by the record as well, by correspondence between Petitioner and
20 counsel, indicating familiarity with the file.

21 It is interesting that the Petitioner contends that he only had 10 minutes to
22 review and sign the GPA, and that he wasn't given a copy of it. The Court notes that at
23 the Arraignment, when he was canvassed, the following occurred:

24 THE COURT: In looking at the Guilty Plea Agreement, it looks like you signed it
25 on page 6, dated December 21; did you sign it today?

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Did you have a chance to read it? Did you understand it before
28 you signed it?

THE DEFENDANT: Yeah, I understood.

THE COURT: Okay. You had a chance to talk to Mr. Troiano about it and he
answered any questions you had about it?

THE DEFENDANT: Who is that?

THE COURT: This attorney standing next to you.

THE DEFENDANT: Oh, yeah. I talked to him.

THE COURT: Do you understand that by signing the Guilty Plea Agreement
you're agreeing that you read it and understood it; correct?

THE DEFENDANT: That's -- that's correct, sir.

1 THE COURT: You understand that by signing it you're giving up important
2 Constitutional rights like right to go to trial, confront your accuser, to present
evidence on your own behalf; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you currently under the influence of any alcohol, medication,
narcotics or any substance that might affect your ability to understand these
documents or the process that we're going through?

5 THE DEFENDANT: No, sir.

6 THE COURT: Are you currently suffering from any emotional or physical
distress that's caused you to enter this plea?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you understand that the range of punishment for this -- these
charges as to Count One, it's up to one to four years and up to \$5,000 fine, and
9 Count Two is up to six years and up to a \$5,000 fine; do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that sentencing is strictly up to the Court,
nobody can promise you probation, leniency or any special treatment?

12 THE DEFENDANT: I understand.

13 THE COURT: Do you have any questions that you want to ask of me, your
attorney or the State before we go forward?

14 THE DEFENDANT: Are you the sentencing judge?

15 THE COURT: Am I what?

16 THE DEFENDANT: The sentencing judge --

17 THE COURT: I am in your case.

18 MR. TROLANO: Actually, yeah, he is.

19 THE COURT: And your case is assigned to Department 30, so I will be the
sentencing judge, but only after you do a PSI.

20 THE DEFENDANT: All right.

21 THE COURT: Any other questions?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has your attorney made any promises to you that are not
contained in the Guilty Plea Agreement?

24 THE DEFENDANT: No.

25 THE COURT: Based on all the facts and circumstances, are you satisfied with the
services of your attorney?

26 THE DEFENDANT: Yes.

27 (See Transcript from Arraignment, December 21, 2018, at pgs. 5-7).

28 Petitioner has also requested that counsel be appointed for post-conviction
purposes. The Court notes that the 6th Amendment to the Constitution does not
provide a right to post-conviction counsel. *Coleman v. Thompson*, 501 U.S. 722, 752,
Ill S.Ct. 2546, 2566 (1991). See also *McKague v. Warden*, 112 Nev. 159, 163, 912 P.2d
255, 258 (1996) (Extending *Coleman's* holding to NV). NRS 34.750(1) provides the
Court with discretion to appoint post-conviction counsel if the issues are difficult, the

1 Defendant is unable to comprehend the proceedings, or counsel is necessary to proceed
2 with discovery. The Court finds that none of those issues is present in this case.

3 **CONCLUSION AND ORDER.**

4 Based upon the foregoing, this Court finds and concludes that Petitioner's
5 Petition for Writ of Habeas Corpus lacks merit, his arguments are belied by the record,
6 and he has failed to meet his burden in establishing that his Due Process rights were
7 violated. The Court finds no good cause to appoint counsel pursuant to NRS 34.750.
8 Consequently, and good cause appearing,

9 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that the Petition
10 for Writ of Habeas Corpus is hereby **DENIED**.

11 **IT IS FURTHER ORDERED ADJUDGED AND DECREED** that the
12 Motion for Appointment of Counsel is hereby **DENIED**.

13 The hearing set for May 7, 2020, in this matter is hereby taken "**off calendar**,"
14 as it is no longer necessary.

15 Dated this 5TH day of May, 2020.



16 JERRY A. WIESE II
17 DISTRICT COURT JUDGE
18 EIGHTH JUDICIAL DISTRICT COURT
19 DEPARTMENT XXX
20
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23
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CASE SUMMARY

CASE NO. A-20-810466-W

Christopher Blockson, Plaintiff(s)
vs.
Nevada Department of Correction, Defendant(s)

§
§
§
§
§

Location: **Department 30**
 Judicial Officer: **Wiese, Jerry A.**
 Filed on: **02/13/2020**
 Cross-Reference Case Number: **A810466**

CASE INFORMATION

Related Cases

C-18-336552-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus****Statistical Closures**

05/05/2020 Summary Judgment

Case Status: **05/05/2020 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**







Case Number	A-20-810466-W
Court	Department 30
Date Assigned	02/13/2020
Judicial Officer	Wiese, Jerry A.

PARTY INFORMATION

Plaintiff **Blockson, Christopher****Pro Se**

Defendant **Jerry Howell, Warden**
 Nevada Department of Correction

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

02/13/2020	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Blockson, Christopher <i>Post Conviction</i>
02/13/2020	 Memorandum of Points and Authorities Filed By: Plaintiff Blockson, Christopher <i>Memorandum of Argument and Legal Authorities In Support of Writ of Habeas Corpus</i>
02/13/2020	 Motion for Appointment of Attorney Filed By: Plaintiff Blockson, Christopher
02/20/2020	 Order Setting Hearing <i>Order Setting Briefing Schedule and Hearing Re: Petition for Writ of Habeas Corpus</i>
03/27/2020	 Response Filed by: Defendant Nevada Department of Correction <i>State's Response to Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Memorandum of Argument and Legal Authorities in Support of Writ of Habeas Corpus (Post-Conviction), and Motion to Appoint Counsel</i>
05/05/2020	 Order

CASE SUMMARY
CASE NO. A-20-810466-W

Order

05/14/2020



Notice of Entry of Order

Filed By: Defendant Jerry Howell, Warden

Notice of Entry of Order

06/04/2020



Motion

Filed By: Plaintiff Blockson, Christopher

Motion to Discharge in Petition for Writ of Habeas Corpus (Post Conviction)

06/10/2020



Clerk's Notice of Hearing

Notice of Hearing

06/15/2020



Notice of Appeal (criminal)

Notice of Appeal

06/15/2020



Designation of Record on Appeal

Designation of Record on Appeal

06/16/2020



Case Appeal Statement

Filed By: Plaintiff Blockson, Christopher

Case Appeal Statement

HEARINGS

05/07/2020

CANCELED Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated

05/07/2020

CANCELED Motion for Appointment of Attorney (8:30 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated

07/08/2020

Motion (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiff's Motion to Discharge in Petition for Writ of Habeas Corpus (Post Conviction)

DISTRICT COURT CIVIL COVER SHEET

A-20-810466-W
Dept. XXX

County, Nevada

Case No.

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Christopher Blockson

Defendant(s) (name/address/phone):

Nevada Department of Corrections

Attorney (name/address/phone):

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

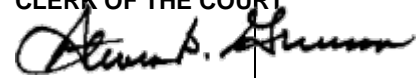
February 13, 2020

Date

PREPARED BY CLERK

Signature of initiating party or representative

See other side for family-related case filings.



**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

CHRISTOPHER BLOCKSON,)
)
Petitioner,) CASE NO.: A-20-810466-W
)
) DEPT. NO.: XXX
vs.)
)
NEVADA DEPARTMENT OF)
CORRECTIONS AND JERRY)
HOWELL, WARDEN)
)
Respondent.) ORDER
)
)

INTRODUCTION.

The above-captioned matter is scheduled for hearing on Thursday, May 7, 2020, with regard to Petitioner's Petition for Writ of Habeas Corpus, and Motion for Appointment of Attorney. Pursuant to A.O. 20-01, and subsequent administrative orders of the Court, this matter is deemed "non-essential," and may be resolved after a hearing (held by alternative means), decided on the papers, or continued. The Court has determined that it would be appropriate to decide these matters on the papers, and consequently, this Order issues.

On 12/10/18, Christopher Blackson ("Petitioner") was charged in an Information in Case No. C336552 with: Count 1- Cruelty to Animals (Category D Felony- NRS 574.100.1a); Count 2- Ownership or Possession of Firearm by Prohibited Person (Category B Felony- NRS 202.360); and Count 3- Discharge of Firearm From or Within a Structure or Vehicle (Category B Felony- NRS 202.287).

Petitioner was represented by Michael Troiano at the trial level. Pursuant to a Guilty Plea Agreement (GPA) filed on 12/21/18, Petitioner pled guilty to one count of Cruelty to Animals and one count of Ownership or Possession of Firearm by Prohibited Person.

According to allegations contained in the Information, Petitioner pled guilty to willfully, unlawfully, maliciously and feloniously torturing, unjustifiably maiming or killing a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or failing to get medical treatment for said dog. He was also charged with willfully,

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Motion to Dismiss by Deft(s)	<input type="checkbox"/>	Judgment of Arbitration

1 unlawfully, and feloniously owing, or having in his possession and/or under his custody
2 or control, a Ruger .357 revolver after being convicted in 1996 of Possession of
3 Controlled Substance with Intent to Sell, which is a felony under Nevada law.

4 When Mr. Blockson pled guilty, at the time of his arraignment, pursuant to the
5 GPA, he was canvassed in part as follows:

6 All right. Before I can accept your plea of guilty, I have to go through the
7 Information with you to make sure that there's a factual basis. It says on or
8 about the fourth day of April 2018 in Clark County, Nevada, contrary to the laws
9 of the State of Nevada, on Count One, you did willfully, unlawfully, maliciously
10 and feloniously torture or unjustifiably maim, mutilate or kill a Pitbull dog by
11 shooting or stabbing or cutting said dog and/or failing to get medical treatment
12 for said dog.

13 Count Two, ownership or possession of a firearm by a prohibited person, you did
14 willfully, unlawfully and feloniously own or have possession and/or under your
15 custody or control a firearm, to wit, a Ruger .357 revolver bearing serial number
16 575-15259, the Defendant being a convicted felon having in 1996 being -- been
17 convicted of possession of a controlled substance with intent to sell in case
18 C135719 in the Eighth Judicial Court, a felony under the laws of the State of
19 Nevada.

20 Did you do those things?

21 THE DEFENDANT: Yes, sir.

22 (See Transcript of Hearing, December 21, 2018, at pgs. 7-8)

23 Petitioner now contends that this case arose when his wife brought home a
24 rescue dog, which then attacked him.

25 On 04/16/19, Petitioner was sentenced to 19-48 months on Count 1; and 28-72
26 months on Count 2, to run consecutive to Count 1. Petitioner received an aggregate
27 sentence of 47 to 120 months with 74 days' credit for time served. The Court dismissed
28 Count 3. The Judgment of Conviction (JOC) was filed on 04/22/19.

Petitioner filed his Notice of Appeal on 05/02/19, and the Court appointed
counsel (Jason Makris) on 05/23/19. Petitioner filed a Notice of Withdrawal of his
appeal on 12/30/19, and the Supreme Court filed an Order Dismissing Appeal on
01/16/20 in Case No. 78731.

LEGAL AND FACTUAL ANALYSIS.

Petitioner now argues that the sentence in Count 1 is illegal, because the State
incorrectly alleged a violation of NRS 574.100(1)(a) was a felony, but Petitioner believes
he should have been found guilty of a misdemeanor under NRS 574.100(7)(a-b).
Consequently, he believes that his sentence of 19-48 months on Count 1 was illegal.

1 Because he believes the District Attorney misrepresented the charge, his GPA was not
2 signed knowingly, voluntarily, and intelligently. Petitioner also argues, however, that
3 he accepted his plea deal because it was better than facing habitual treatment, and
4 consequently, he did enter his plea knowingly and voluntarily, and does not wish to
5 withdraw his plea, either then or now.

6 Petitioner argues that Appellate Counsel, Jason Makris was ineffective, for
7 failing to read the statute and compare it to the charge, and that Makris withdrew the
8 appeal before Petitioner had a chance to speak to him.

9 Petitioner also argues that the state engaged in malicious prosecution and abuse
10 of power, by failing to correctly charge Petitioner, and by only giving him 10 minutes to
11 review and sign the GPA or face habitual treatment, and he was not given a copy of the
12 GPA.

13 The State responds that the Petitioner's sentence is not facially illegal, he was
14 not maliciously prosecuted, and he is not entitled to sentence modification.

15 The State acknowledges that A Court may correct an illegal sentence at any time.
16 *Passanisi v. State*, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). "A motion to correct
17 an illegal sentence is an appropriate vehicle for raising the claim that a sentence is
18 facially illegal at any time; such a motion cannot be used as a vehicle for challenging the
19 validity of a judgment of conviction or sentence based on alleged errors occurring at
20 trial or sentencing." *Edwards*, 112 Nev. at 708, 918 P.2d at 324. "Motions to correct
21 illegal sentences address only the facial legality of a sentence." Motions to correct illegal
22 sentences evaluate whether the sentence imposed on the defendant is "at variance with
23 the controlling statute, or illegal in the sense that the court goes beyond its authority by
24 acting without jurisdiction or imposing a sentence in excess of the statutory maximum
25 provided." *Id.* (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985)). The
26 State argues that a Petition for Writ of Habeas Corpus is not the appropriate vehicle for
27 Petitioner's claim, because NRS 34.810(1)(a) states that ***the Court must dismiss a***
28 ***petition if "[t]he petitioner's conviction was upon a plea of guilty*** or guilty
but mentally ill and the petition is not based upon an allegation that the plea was
involuntarily or unknowingly entered or that the plea was entered without effective
assistance of counsel." Here, Petitioner's conviction was based up on a plea of guilty.
(NRS 34.8910, emphasis added).

1 If the Court considers the merits of the Petition, with regard to Ground 1, it
2 appears that the Petitioner is misinterpreting NRS 574.100. NRS 574.100(6) states in
3 relevant part that a person who "willfully and maliciously" violates NRS 574.100(1)(a)
4 "is guilty of a category D felony." The Petitioner's argument that he was not charged
5 with a violation of NRS 574.100(1) is belied by the record, as the Information alleges
6 this violation, and indicates that he was being charged with the Category D felony
7 portion of the statute. The Court finds that the Information complies with NRS
8 173.075.

9 Petitioner appears to request a modification of his sentence, but in general, a
10 District Court lacks jurisdiction to modify a sentence once a Defendant has started
11 serving it. *Passanisi v. State*, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992) (overruled
12 on other grounds). A Court can correct a sentence if the Defendant can establish that
13 the sentence violates Due Process, and is based on a materially untrue assumption or
14 mistake of fact, that worked to the Defendant's extreme detriment. *Edwards v. State*,
15 112 Nev. 704, 707, 918 Pl2d 321, 324 (1996). Here, Petitioner's claim is without merit,
16 as he failed to demonstrate that he was maliciously prosecuted in violation of NRS
17 199.130. Plaintiff further indicates that he does not wish to withdraw his guilty plea. In
18 essence, Petitioner wants to receive the benefit of his GPA without serving the sentence
19 that he agreed to. This is inappropriate. *State v. Second Judicial Dist. Court in & for*
20 *Ctv. of Washoe*, 134 Nev. 384, 391, 21 P.3d 803, 808 (2018).

21 To prevail on a claim of ineffective assistance of trial counsel, a defendant must
22 prove he was denied "reasonably effective assistance" of counsel by satisfying the two-
23 prong test of *Strickland*, 466 U.S. at 686-87, 104 S. Ct. at 2063-64; *Love*, 109 Nev. at
24 1138, 865 P.2d at 323. Under the *Strickland* test, a defendant must show first that his,
25 counsel's representation fell below an objective standard of reasonableness, and
26 second, that but for counsel's errors, there is a reasonable probability that the result of
27 the proceedings would have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065,
28 2068; *Warden, Nevada State Prison v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505
(1984) (adopting the *Strickland* two-part test).

The court begins with the presumption of effectiveness and then must determine
whether the defendant has demonstrated by a preponderance of the evidence that
counsel was ineffective. *Means v. State*, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004).

1 "Effective counsel does not mean errorless counsel, but rather counsel whose assistance
2 is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" *Jackson*
3 *v. Warden*, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975).

4 "A habeas corpus petitioner must prove the disputed factual allegations
5 underlying his ineffective-assistance claim by a preponderance of the evidence." *Means*
6 *v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore, claims of
7 ineffective assistance of counsel asserted in a petition for post-conviction relief must be
8 supported with specific factual allegations, which if true, would entitle the petitioner to
9 relief. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and
10 "naked" allegations are not sufficient, nor are those belied and repelled by the record.
11 *Id.* NRS 34.735(6).

12 Petitioner argues that counsel was ineffective for failing to argue that NRS
13 574.100(1)(a) is a misdemeanor, not a felony. The court has already held that such
14 argument has no merit. Petitioner argues that counsel was ineffective for depriving
15 him of his right to appeal, but Petitioner specifically alleges in his Memorandum that
16 he "wrote the Nevada Supreme Court expressing my desire to withdraw the direct
17 appeal." (Memo at pg. 2). Consequently, that argument is belied by the record. Finally,
18 Petitioner argues that his counsel was ineffective for failing to read his file, but that
19 claim is belied by the record as well, by correspondence between Petitioner and
20 counsel, indicating familiarity with the file.

21 It is interesting that the Petitioner contends that he only had 10 minutes to
22 review and sign the GPA, and that he wasn't given a copy of it. The Court notes that at
23 the Arraignment, when he was canvassed, the following occurred:

24 THE COURT: In looking at the Guilty Plea Agreement, it looks like you signed it
25 on page 6, dated December 21; did you sign it today?

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Did you have a chance to read it? Did you understand it before
28 you signed it?

THE DEFENDANT: Yeah, I understood.

THE COURT: Okay. You had a chance to talk to Mr. Troiano about it and he
answered any questions you had about it?

THE DEFENDANT: Who is that?

THE COURT: This attorney standing next to you.

THE DEFENDANT: Oh, yeah. I talked to him.

THE COURT: Do you understand that by signing the Guilty Plea Agreement
you're agreeing that you read it and understood it; correct?

THE DEFENDANT: That's -- that's correct, sir.

1 THE COURT: You understand that by signing it you're giving up important
2 Constitutional rights like right to go to trial, confront your accuser, to present
evidence on your own behalf; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you currently under the influence of any alcohol, medication,
narcotics or any substance that might affect your ability to understand these
5 documents or the process that we're going through?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you currently suffering from any emotional or physical
distress that's caused you to enter this plea?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you understand that the range of punishment for this -- these
charges as to Count One, it's up to one to four years and up to \$5,000 fine, and
Count Two is up to six years and up to a \$5,000 fine; do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that sentencing is strictly up to the Court,
nobody can promise you probation, leniency or any special treatment?

12 THE DEFENDANT: I understand.

13 THE COURT: Do you have any questions that you want to ask of me, your
attorney or the State before we go forward?

14 THE DEFENDANT: Are you the sentencing judge?

15 THE COURT: Am I what?

16 THE DEFENDANT: The sentencing judge --

17 THE COURT: I am in your case.

18 MR. TROIANO: Actually, yeah, he is.

19 THE COURT: And your case is assigned to Department 30, so I will be the
sentencing judge, but only after you do a PSI.

20 THE DEFENDANT: All right.

21 THE COURT: Any other questions?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has your attorney made any promises to you that are not
contained in the Guilty Plea Agreement?

24 THE DEFENDANT: No.

25 THE COURT: Based on all the facts and circumstances, are you satisfied with the
services of your attorney?

26 THE DEFENDANT: Yes.

27 (See Transcript from Arraignment, December 21, 2018, at pgs. 5-7).

28 Petitioner has also requested that counsel be appointed for post-conviction
purposes. The Court notes that the 6th Amendment to the Constitution does not
provide a right to post-conviction counsel. *Coleman v. Thompson*, 501 U.S. 722, 752,
Ill S.Ct. 2546, 2566 (1991). See also *McKague v. Warden*, 112 Nev. 159, 163, 912 P.2d
255, 258 (1996) (Extending *Coleman's* holding to NV). NRS 34.750(1) provides the
Court with discretion to appoint post-conviction counsel if the issues are difficult, the

1 Defendant is unable to comprehend the proceedings, or counsel is necessary to proceed
2 with discovery. The Court finds that none of those issues is present in this case.

3 **CONCLUSION AND ORDER.**

4 Based upon the foregoing, this Court finds and concludes that Petitioner's
5 Petition for Writ of Habeas Corpus lacks merit, his arguments are belied by the record,
6 and he has failed to meet his burden in establishing that his Due Process rights were
7 violated. The Court finds no good cause to appoint counsel pursuant to NRS 34.750.
8 Consequently, and good cause appearing,

9 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that the Petition
10 for Writ of Habeas Corpus is hereby **DENIED**.

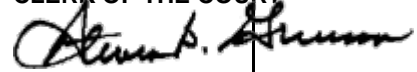
11 **IT IS FURTHER ORDERED ADJUDGED AND DECREED** that the
12 Motion for Appointment of Counsel is hereby **DENIED**.

13 The hearing set for May 7, 2020, in this matter is hereby taken "**off calendar**,"
14 as it is no longer necessary.

15 Dated this 5TH day of May, 2020.



16 JERRY A. WIESE II
17 DISTRICT COURT JUDGE
18 EIGHTH JUDICIAL DISTRICT COURT
19 DEPARTMENT XXX
20
21
22
23
24
25
26
27
28



NEOJ

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHRISTOPHER BLOCKSON,

Petitioner,

Case No: A-20-810466-W

Dept. No: XXX

vs.

NEVADA DEPARTMENT OF CORRECTION;
ET.AL.,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on May 5, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 14, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 14 day of May 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

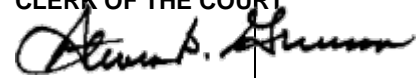
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Christopher Blockson # 50821
P.O. Box 208
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

CHRISTOPHER BLOCKSON,)
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23 Petitioner now contends that this case arose when his wife brought home a
24 rescue dog, which then attacked him.

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Petitioner now argues that the sentence in Count 1 is illegal, because the State
incorrectly alleged a violation of NRS 574.100(1)(a) was a felony, but Petitioner believes
he should have been found guilty of a misdemeanor under NRS 574.100(7)(a-b).
Consequently, he believes that his sentence of 19-48 months on Count 1 was illegal.

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2 signed knowingly, voluntarily, and intelligently. Petitioner also argues, however, that
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6 this violation, and indicates that he was being charged with the Category D felony
7 portion of the statute. The Court finds that the Information complies with NRS
8 173.075.

9 Petitioner appears to request a modification of his sentence, but in general, a
10 District Court lacks jurisdiction to modify a sentence once a Defendant has started
11 serving it. *Passanisi v. State*, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992) (overruled
12 on other grounds). A Court can correct a sentence if the Defendant can establish that
13 the sentence violates Due Process, and is based on a materially untrue assumption or
14 mistake of fact, that worked to the Defendant's extreme detriment. *Edwards v. State*,
15 112 Nev. 704, 707, 918 Pl2d 321, 324 (1996). Here, Petitioner's claim is without merit,
16 as he failed to demonstrate that he was maliciously prosecuted in violation of NRS
17 199.130. Plaintiff further indicates that he does not wish to withdraw his guilty plea. In
18 essence, Petitioner wants to receive the benefit of his GPA without serving the sentence
19 that he agreed to. This is inappropriate. *State v. Second Judicial Dist. Court in & for*
20 *Ctv. of Washoe*, 134 Nev. 384, 391, 21 P.3d 803, 808 (2018).

21 To prevail on a claim of ineffective assistance of trial counsel, a defendant must
22 prove he was denied "reasonably effective assistance" of counsel by satisfying the two-
23 prong test of *Strickland*, 466 U.S. at 686-87, 104 S. Ct. at 2063-64; *Love*, 109 Nev. at
24 1138, 865 P.2d at 323. Under the *Strickland* test, a defendant must show first that his,
25 counsel's representation fell below an objective standard of reasonableness, and
26 second, that but for counsel's errors, there is a reasonable probability that the result of
27 the proceedings would have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065,
28 2068; *Warden, Nevada State Prison v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505
(1984) (adopting the *Strickland* two-part test).

The court begins with the presumption of effectiveness and then must determine
whether the defendant has demonstrated by a preponderance of the evidence that
counsel was ineffective. *Means v. State*, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004).

1 "Effective counsel does not mean errorless counsel, but rather counsel whose assistance
2 is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" *Jackson*
3 *v. Warden*, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975).

4 "A habeas corpus petitioner must prove the disputed factual allegations
5 underlying his ineffective-assistance claim by a preponderance of the evidence." *Means*
6 *v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore, claims of
7 ineffective assistance of counsel asserted in a petition for post-conviction relief must be
8 supported with specific factual allegations, which if true, would entitle the petitioner to
9 relief. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and
10 "naked" allegations are not sufficient, nor are those belied and repelled by the record.
11 *Id.* NRS 34.735(6).

12 Petitioner argues that counsel was ineffective for failing to argue that NRS
13 574.100(1)(a) is a misdemeanor, not a felony. The court has already held that such
14 argument has no merit. Petitioner argues that counsel was ineffective for depriving
15 him of his right to appeal, but Petitioner specifically alleges in his Memorandum that
16 he "wrote the Nevada Supreme Court expressing my desire to withdraw the direct
17 appeal." (Memo at pg. 2). Consequently, that argument is belied by the record. Finally,
18 Petitioner argues that his counsel was ineffective for failing to read his file, but that
19 claim is belied by the record as well, by correspondence between Petitioner and
20 counsel, indicating familiarity with the file.

21 It is interesting that the Petitioner contends that he only had 10 minutes to
22 review and sign the GPA, and that he wasn't given a copy of it. The Court notes that at
23 the Arraignment, when he was canvassed, the following occurred:

24 THE COURT: In looking at the Guilty Plea Agreement, it looks like you signed it
25 on page 6, dated December 21; did you sign it today?

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Did you have a chance to read it? Did you understand it before
28 you signed it?

THE DEFENDANT: Yeah, I understood.

THE COURT: Okay. You had a chance to talk to Mr. Troiano about it and he
answered any questions you had about it?

THE DEFENDANT: Who is that?

THE COURT: This attorney standing next to you.

THE DEFENDANT: Oh, yeah. I talked to him.

THE COURT: Do you understand that by signing the Guilty Plea Agreement
you're agreeing that you read it and understood it; correct?

THE DEFENDANT: That's -- that's correct, sir.

1 THE COURT: You understand that by signing it you're giving up important
2 Constitutional rights like right to go to trial, confront your accuser, to present
evidence on your own behalf; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you currently under the influence of any alcohol, medication,
narcotics or any substance that might affect your ability to understand these
5 documents or the process that we're going through?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you currently suffering from any emotional or physical
distress that's caused you to enter this plea?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you understand that the range of punishment for this -- these
charges as to Count One, it's up to one to four years and up to \$5,000 fine, and
Count Two is up to six years and up to a \$5,000 fine; do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that sentencing is strictly up to the Court,
nobody can promise you probation, leniency or any special treatment?

12 THE DEFENDANT: I understand.

13 THE COURT: Do you have any questions that you want to ask of me, your
attorney or the State before we go forward?

14 THE DEFENDANT: Are you the sentencing judge?

15 THE COURT: Am I what?

16 THE DEFENDANT: The sentencing judge --

17 THE COURT: I am in your case.

18 MR. TROIANO: Actually, yeah, he is.

19 THE COURT: And your case is assigned to Department 30, so I will be the
sentencing judge, but only after you do a PSI.

20 THE DEFENDANT: All right.

21 THE COURT: Any other questions?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has your attorney made any promises to you that are not
contained in the Guilty Plea Agreement?

24 THE DEFENDANT: No.

25 THE COURT: Based on all the facts and circumstances, are you satisfied with the
services of your attorney?

26 THE DEFENDANT: Yes.

27 (See Transcript from Arraignment, December 21, 2018, at pgs. 5-7).

28 Petitioner has also requested that counsel be appointed for post-conviction
purposes. The Court notes that the 6th Amendment to the Constitution does not
provide a right to post-conviction counsel. *Coleman v. Thompson*, 501 U.S. 722, 752,
Ill S.Ct. 2546, 2566 (1991). See also *McKague v. Warden*, 112 Nev. 159, 163, 912 P.2d
255, 258 (1996) (Extending *Coleman's* holding to NV). NRS 34.750(1) provides the
Court with discretion to appoint post-conviction counsel if the issues are difficult, the

1 Defendant is unable to comprehend the proceedings, or counsel is necessary to proceed
2 with discovery. The Court finds that none of those issues is present in this case.

3 **CONCLUSION AND ORDER.**

4 Based upon the foregoing, this Court finds and concludes that Petitioner's
5 Petition for Writ of Habeas Corpus lacks merit, his arguments are belied by the record,
6 and he has failed to meet his burden in establishing that his Due Process rights were
7 violated. The Court finds no good cause to appoint counsel pursuant to NRS 34.750.
8 Consequently, and good cause appearing,

9 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that the Petition
10 for Writ of Habeas Corpus is hereby **DENIED**.

11 **IT IS FURTHER ORDERED ADJUDGED AND DECREED** that the
12 Motion for Appointment of Counsel is hereby **DENIED**.

13 The hearing set for May 7, 2020, in this matter is hereby taken "**off calendar**,"
14 as it is no longer necessary.

15 Dated this 5TH day of May, 2020.



16 JERRY A. WIESE II
17 DISTRICT COURT JUDGE
18 EIGHTH JUDICIAL DISTRICT COURT
19 DEPARTMENT XXX
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Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; NOTICE OF ENTRY OF ORDER

CHRISTOPHER BLOCKSON,

Plaintiff(s),

vs.

NEVADA DEPT. OF CORRECTIONS; JERRY
HOWELL WARDEN,

Defendant(s),

Case No: A-20-810466-W

Dept No: XXX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 16 day of June 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

