

1 CODE NO. 2515
2 WASHOE COUNTY PUBLIC DEFENDER
3 EVELYN GROSENICK, State Bar Number 12217
4 KATHRYN REYNOLDS, State Bar Number 10955
5 350 South Center Street, 5th Floor
6 Reno, Nevada 89501
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Attorney for Defendant

Electronically Filed
Jan 08 2021 10:27 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9
10 TRAVIS BISH,

11 Petitioner,

12 vs.

Case No. CR20-2911

13 THE JUSTICE COURT FOR SPARKS
14 TOWNSHIP, THE HON. JESSICA
15 LONGLEY, BY AND THROUGH REAL
16 PARTY IN INTEREST, THE STATE
17 OF NEVADA,

Dept. 9

18 Defendant.

19 /

20 **NOTICE OF APPEAL**

21 Petitioner, Travis Bish, appeals to the Supreme Court of Nevada from the Order
22 Denying Emergency Petition for Writ of Habeas Corpus, or in the alternative, Petition
23 for Writ of Mandamus; and Request for Emergency Hearing entered on December 3,
24 2020.

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The undersigned hereby affirms, pursuant to NRS 239B.030, that this document does not contain the social security number of any person.

DATED: December 30th, 2020

JOHN L. ARRASCADA
WASHOE COUNTY PUBLIC DEFENDER

By: /s/ Evelyn Grosenick
EVELYN GROSENICK, Chief Deputy

By: /s/ Kathryn Reynolds
KATHRYN REYNOLDS, Deputy

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

BRITTANY BISHOP, ESQ
Deputy
Washoe County District Attorney's Office
(*E-flex*)

JENNIFER P. NOBLE
Chief Appellate Deputy
Washoe County District Attorney's Office
(*E-flex*)

AARON D. FORD
Attorney General State of Nevada
100 N. Carson Street
Carson City, Nevada 89701

DATED this 30th day of December, 2020.

/s/ Kathryn Reynolds
KATHRYN REYNOLDS

1 CODE NO. 1310
2 WASHOE COUNTY PUBLIC DEFENDER
3 EVELYN GROSENICK, State Bar Number 12217
4 KATHRYN REYNOLDS, State Bar Number 10955
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Attorney for Defendant

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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9 IN AND FOR THE COUNTY OF WASHOE

10 TRAVIS BISH,

11 Petitioner,

12 vs.

Case No. CR20-2911

13 THE JUSTICE COURT FOR SPARKS
14 TOWNSHIP, THE HON. JESSICA
15 LONGLEY, BY AND THROUGH REAL
16 PARTY IN INTEREST, THE STATE
17 OF NEVADA,

Dept. 9

Defendant.
_____/

18 **CASE APPEAL STATEMENT**

19 1. Appellant, Travis Bish.

20 2. This appeal is from an Order Denying Emergency Petition for Writ of
21 Habeas Corpus, or in the alternative, Petition for Writ of Mandamus entered on
22 December 3, 2020 by the Honorable Scott N. Freeman, district judge.

23 3. The parties below were the Sparks Justice Court, the Hon. Jessica
24 Longley as Respondent; the State of Nevada (as Real Party in Interest); and Travis
25 Bish, Petitioner.
26

1 4. The parties herein are Travis Bish, Appellant and the State of Nevada,
2 Respondent.

3 5. Counsel on appeal: For the Appellant, the Washoe County Public
4 Defender's Office and Evelyn Grosenick, Chief Deputy, and Kathryn Reynolds,
5 Appellate Deputy, 350 South Center Street, 5th Floor, Reno, Nevada 89520-0027,
6 (775) 337-4882; and for the Respondent, the Washoe County District Attorney's
7 Office, One South Sierra Street, Reno, Nevada 89501, (775) 337-5751.

8 6. Appointed counsel represented Appellant in the district court and at
9 Sparks Justice Court.

10 7. Appointed counsel represents Appellant on appeal.

11 8. The Washoe County Public Defender was court-appointed.

12 9. Petitioner's Emergency Petition for Writ of Habeas Corpus, or in the
13 alternative, Petition for Writ of Mandamus was filed on October 6, 2020.

14 10. On December 3, 2020, the district court entered its order denying
15 Appellant's Petition.

16 11. This case has not previously been the subject of appeal or writ
17 proceeding.

18 12. This appeal does not involve child custody or visitation.

19 13. This appeal is brought pursuant to NRS 2.090(2) (providing jurisdiction
20 to review appeals from district court orders denying mandamus relief) and NRAP
21 3A(b)(1) (appeal from final judgment).

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1 The undersigned hereby affirms, pursuant to NRS 239B.030, that this
2 document does not contain the social security number of any person.

3 DATED: December 30, 2020.

4 JOHN L. ARRASCADA
5 WASHOE COUNTY PUBLIC DEFENDER

6 By: /s/ Evelyn Grosenick
7 EVELYN GROSENICK, Chief Deputy

8 By: /s/ Kathryn Reynolds
9 KATHRYN REYNOLDS, Deputy

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

BRITTANY BISHOP, ESQ
Deputy
Washoe County District Attorney's Office
(*E-flex*)

JENNIFER P. NOBLE
Chief Appellate Deputy
Washoe County District Attorney's Office
(*E-flex*)

AARON D. FORD
Attorney General State of Nevada
100 N. Carson Street
Carson City, Nevada 89701

DATED this 30th day of December, 2020.

/s/ Kathryn Reynolds
KATHRYN REYNOLDS

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR20-2911

DEPT. D9

HON. SCOTT N. FREEMAN

Report Date & Time

12/30/2020

2:48:27PM

Case Description: STATE VS. TRAVIS BISH (D9)			
Case ID:	CR20-2911	Case Type:	CRIMINAL
		Initial Filing Date:	9/15/2020

Parties

PLTF	STATE OF NEVADA - STATE
DA	Jennifer P. Noble, Esq. - 9446
DA	Brittany Bishop, Esq - 13745
DEFT	TRAVIS BISH - @1362028
PD	Evelyn Grosenick, Esq. - 12217

Charges

Charge No.	Charge Code	Charge Date	Charge Description
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Plea Information

Charge No.	Plea Code	Plea Date	Plea Description
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Release Information

Custody Status

Hearings

Department		Event Description	Sched. Date & Time		Disposed Date
1	D9	Request for Submission	10/27/2020	08:55:00	12/3/2020
Event Extra Text: Emergency Petition for Writ of Habeas Corpus, Or in the Alternative, Petition for Writ of Mandamus; Request for Emergency Hearing; State's Response and Petitioner's Reply; All Motion, Pleadings and Oral Argument			Disposition: S200 12/3/2020		

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
DA	District Attorney's Office	DA2010610

Actions

Action Entry Date	Code	Code Description	Text
9/15/2020	3843	Request for Early Case Assignm	CASE RANDOMLY ASSIGNED TO D9 - Transaction 8067140 - Approved By: CAGUILAR : 09-15-2020:08:41:04
10/6/2020	3585	Pet Writ Habeas Corpus	EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNATIVE, PETITION FOR WRI
10/6/2020	NEF	Proof of Electronic Service	Transaction 8102738 - Approved By: NOREVIEW : 10-06-2020:15:02:12
10/6/2020	2520	Notice of Appearance	NOTICE OF APPEARANCE: EVELYN GROSENICK PD - Transaction 8102670 - Approved By: YVILORIA : 10-0
10/6/2020	NEF	Proof of Electronic Service	Transaction 8102914 - Approved By: NOREVIEW : 10-06-2020:15:31:45
10/8/2020	COC	Evidence Chain of Custody Form	
10/9/2020	NEF	Proof of Electronic Service	Transaction 8108728 - Approved By: NOREVIEW : 10-09-2020:13:15:53

Case ID:		Case Type:	Case Description: STATE VS. TRAVIS BISH (D9)	Initial Filing Date:	9/15/2020
10/9/2020	4075	Substitution of Counsel	SUBSTITUTION OF COUNSEL FOR THE STATE: BRITTANY BISHOP DA IN PLACE OF CHRISTOPHER HICK		
10/12/2020	3370	Order ...	ORDER DIRECTING THE STATE TO RESPOND - Transaction 8110734 - Approved By: NOREVIEW : 10-12-20		
10/12/2020	NEF	Proof of Electronic Service	Transaction 8110735 - Approved By: NOREVIEW : 10-12-2020:12:16:23		
10/19/2020	3880	Response...	STATE'S RESPONSE TO PETITIONER'S EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN		
10/19/2020	NEF	Proof of Electronic Service	Transaction 8122959 - Approved By: NOREVIEW : 10-19-2020:16:18:05		
10/21/2020	3795	Reply...	REPLY IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNAT		
10/21/2020	NEF	Proof of Electronic Service	Transaction 8126866 - Approved By: NOREVIEW : 10-21-2020:14:37:45		
10/27/2020	NEF	Proof of Electronic Service	Transaction 8134765 - Approved By: NOREVIEW : 10-27-2020:08:41:28		
10/27/2020	3860	Request for Submission	Transaction 8134759 - Approved By: NOREVIEW : 10-27-2020:08:40:28		
12/3/2020	NEF	Proof of Electronic Service	Transaction 8188607 - Approved By: NOREVIEW : 12-03-2020:15:15:12		
12/3/2020	NEF	Proof of Electronic Service	Transaction 8188613 - Approved By: NOREVIEW : 12-03-2020:15:18:02		
12/3/2020	2842	Ord Denying Motion	ORDER DENYING EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNATIVE, P		
12/3/2020	S200	Request for Submission Complet			
12/3/2020	FIE	**Document Filed in Error	ORDER DENYING EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNATIVE, P		
12/30/2020	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8224729 - Approved By: N		
12/30/2020	1310	Case Appeal Statement	Transaction 8224232 - Approved By: YVILORIA : 12-30-2020:13:05:22		
12/30/2020	2515	Notice of Appeal Supreme Court	Transaction 8224232 - Approved By: YVILORIA : 12-30-2020:13:05:22		
12/30/2020	NEF	Proof of Electronic Service	Transaction 8224269 - Approved By: NOREVIEW : 12-30-2020:13:06:22		

1 CODE: 3370
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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8 TRAVIS BISH,

9
10 Petitioner,

11 v.

12 THE JUSTICE COURT FOR SPARKS
13 TOWNSHIP, THE HON. JESSICA LONGLEY, BY
14 AND THROUGH REAL PARTY IN INTEREST,
15 THE STATE OF NEVADA,

16 Respondent.

Case No.: CR20-2911

Dept. No.: 9

17 **ORDER DENYING EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS, OR IN**
18 **THE ALTERNATIVE, PETITION FOR WRIT OF MANDAMUS; AND REQUEST FOR**
19 **EMERGENCY HEARING**

20 The Court is in receipt of Petitioner TRAVIS BISH's (hereinafter "Petitioner") *Emergency*
21 *Petition for Writ of Habeas Corpus, or in the Alternative, Petition for Writ of Mandamus; and*
22 *Request for Emergency Hearing* filed October 6, 2020. Respondent THE STATE OF NEVADA
23 (hereinafter "the State") filed its *Response to Petitioner's Emergency Petition for Writ of Habeas*
24 *Corpus, Or in The Alternative, Petition for Writ of Mandamus, And Request for Emergency Hearing*
25 on October 19, 2020. Petitioner thereafter filed a *Reply in Support of Emergency Petition for Writ of*
26 *Habeas Corpus, or in the alternative, Petition for Writ of Mandamus; and Request for Emergency*
Hearing Memorandum of Points and Authorities on October 21, 2020.

27 Upon review of the pleadings, this Court finds a hearing on this Petition is not necessary and
28 the Court will therefore decide the instant Petition on the pleadings filed herein.

1 **BACKGROUND**

2 On or about September 14, 2020, Petitioner was arrested and booked on one count of Sexual
3 Assault of a Child Under Age 14, a Category A felony. *Resp.* p. 2:2-5. Thereafter, on or about
4 September 15, 2020, Sparks Justice of the Peace Jessica Longley set cash bail for Petitioner at
5 \$30,000.00, bondable. *Id.* p. 2:5-9. On or about September 16, 2020, Deputy District Attorney
6 Brittany Bishop filed a Complaint against Petitioner which alleged the same charge. More
7 specifically, the Complaint alleges Petitioner “sexually assaulted his nine-year-old adopted
8 daughter, A.I., by digital penetration of her vagina.” *Id.* p. 2:9-12. On or about September 17, 2020,
9 Petitioner was arraigned. Petitioners counsel requested a continuance to address Petitioner’s bail
10 pursuant to *Valdez-Jimenez*. The continuance was granted, and a bail hearing was held on
11 September 18, 2020. At the time of the bail hearing, the State requested a bail increase to
12 \$150,000.00, bondable. In response, the Public Defender’s office gave argument and requested that
13 Petitioner be released on his own recognizance. *Id.* p. 3:12-18.

14 The Court thereafter rendered its decision finding that a \$150,000.00 bail would be
15 excessive in this case due to the Petitioners “low risk of flight . . . low criminal history and
16 financial resources.” *Mot.* p. 7:10-13. However, the Court determined while there was a low risk of
17 flight, “there is still risk of flight due to the nature of the charges, and if convicted it is a mandatory
18 prison offense with a minimum of thirty-five years and a maximum of lifetime in prison.” *Id.* p.
19 7:14-17. The Court subsequently raised Petitioners bail to \$50,000.00 bondable. As of the filing of
20 the *Petition*, Petitioner remained in custody on a \$50,000.00 bail.

21 Petitioner thereafter filed his *Emergency Petition for Writ of Habeas Corpus, or in the*
22 *Alternative, Petition for Writ of Mandamus; and Request for Emergency Hearing*. Upon thorough
23 review of the record and the pleadings before the Court, the Court hereby **DENIES** Petitioners
24 *Emergency Petition for Writ of Habeas Corpus, or in the Alternative, Petition for Writ of*
25 *Mandamus; and Request for Emergency Hearing*.

26 **STANDARD OF REVIEW**

27 “A pretrial release decision is a matter within the sound discretion of the trial court.”
28 *Valdez-Jimenez v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 136 Nev. Adv. Op. 20, 460
P.3d 976, 984 (2020).

///

1 NRS 34.360 provides that “[e]very person unlawfully committed, detained, confined or
2 restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus
3 to inquire into the cause of such imprisonment or restraint.” Pursuant to NRS 34.500(7), a Petitioner
4 who is in custody may be discharged in any number of cases.¹ If there is no legal cause for such
5 imprisonment or continuation thereof, the Judge shall discharge the Petitioner from such
6 imprisonment. NRS 34.480.

7 Furthermore, a writ of mandamus is generally available only in “cases where there is not a
8 plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. A writ of
9 mandamus is appropriate “to compel the performance of an act that the law requires as a duty
10 resulting from an office, trust, or station or to control an arbitrary or capricious exercise of
11 discretion.” *Valdez-Jimenez v. Eighth Judicial Dist. Court in & for Cty. Of Clark*, 136 Nev. Adv.
12 Op. 20 (2020), citing *Int’l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179
13 P.3d 556, 558 (2008); NRS 34.160. The Petitioner bears the burden of demonstrating that
14 extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d
15 840, 844 (2004).

16 **DISCUSSION**

17 First, Petitioner argues that the Sparks Justice Court set Petitioner’s bail in an amount he is
18 unable afford. Petitioner further argues the bail amount of \$50,000.00 constitutes a *de facto*
19 detention order. *Mot.* p. 9:19-22. Petitioner contends the State “failed to prove by clear and
20 convincing evidence that preventive detention is the least restrictive means of reasonably assuring
21 Mr. Bish’s return to the Court and the safety of the community.” *Id.* p. 11:15-19.

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25 ¹ NRS 34.500(7): If it appears on the return of the writ of habeas corpus that the petitioner is in custody by virtue of
26 process from any court of this State, or judge or officer thereof, the petitioner may be discharged in any one of the
following cases:

27 (7) Where the petitioner has been committed or indicted on a criminal charge, including a misdemeanor, except
28 misdemeanor violations of chapters 484A to 484E, inclusive, of NRS or any ordinance adopted by a city or county to
regulate traffic, without reasonable or probable cause.

1 The State, however, asserts Judge Longley did not abuse her discretion in concluding that a
2 \$50,000.00 bail is the least restrictive alternative to satisfy the State's interests. *Opp'n*. p. 6:3-6.

3 Petitioner argues the State did not meet its burden in this case. Specifically, Petitioner
4 argues that Judge Longley concluded "there is a very low risk of flight." *Mot.* p. 14:11. Petitioner
5 comes now asserting that he is a low flight risk as he has family in the area, ties to the community,
6 employment, and a place to live if released. Additionally, Petitioner asserts one of his biological
7 children currently resides in Reno. *Id.* p. 14:10-16. Moreover, Petitioner contends he has no prior
8 arrests relating to anything sexually motivated or for any crimes against children. Petitioner further
9 contends the allegation in this case is of a single incident and further, no evidence of abuse against
10 the two other children in the household was presented. *Id.* p. 15:1-15.

11 The State posits no evidence of Petitioner's instant allegations were presented at the time of
12 the bail hearing. The State further contends Petitioner presented nothing to rebut the State's
13 presented evidence that Petitioner was a danger to victims and the community at the time of the bail
14 hearing. *Opp'n*. p. 10:1-3. Moreover, Petitioner did not provide evidence in support of his request
15 for an own recognizance release.

16 *Valdez-Jimenez* identifies the State's interests as twofold: (1) ensuring the defendant's
17 presence at further proceedings; and (2) protecting victims of the defendant, as well as the
18 community at large.

19 In this case, the record is clear. The morning following his arrest Petitioner had the
20 opportunity to address bail. However, Petitioner requested to continue the hearing to the following
21 day. At the time of the bail hearing, the State and two witnesses appeared. Petitioner was
22 represented by counsel and had the opportunity to call witnesses and present evidence. Following
23 the adversarial hearing, "Justice Longley utilized the requisite *Valdez-Jimenez* considerations and
24 concluded that the State had proven by clear and convincing evidence that bail was necessary, and
25 that setting Petitioner's bail at \$50,000.00, bondable was the least restrictive alternative to achieve
26 those aims." *Id.* p. 7:9-11.

27 In this case, the Court finds there is no indication Judge Longley acted arbitrarily or
28 capriciously when setting Petitioner's bail at \$50,000.00, bondable. The Court finds Judge Longley

1 considered all relevant factors pursuant to *Valdez-Jimenez* when determining Petitioner's bail
2 amount. The Court finds Judge Longley determined Petitioners bail amount following a "full-blown
3 adversarial hearing." Specifically, the Court notes while the State requested an increase to
4 \$150,000.00 bail, Judge Longley found that \$150,000.00 bail would be excessive in this case. Judge
5 Longley ultimately concluded in light of the factors before her, the State had proved bail was
6 necessary in this case to ensure Petitioner's future Court attendance in addition to protecting the
7 safety of the victims and the community. Finding such, the Court hereby denies Petitioner's writ.

8 Accordingly, and good cause appearing, the Court's order is as follows:

9 IT IS HEREBY ORDERED that Petitioner TRAVIS BISH's *Emergency Petition for Writ of*
10 *Habeas Corpus, or in the Alternative, Petition for Writ of Mandamus; and Request for Emergency*
11 *Hearing* is DENIED.

12 IT IS SO ORDERED.

13 DATED: This 3rd day of December, 2020.

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15 _____
16 DISTRICT JUDGE
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1 CERTIFICATE OF SERVICE

2
3 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
4 of the State of Nevada, County of Washoe; that on this 3rd day of December, 2020, I deposited for
5 mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document
6 addressed to:

7 [NONE]

8
9 Further, I certify that on the 3rd day of December, 2020, I electronically filed the
10 foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic
11 filing to the following:

12
13 EVELYN GROSENICK, ESQ. for TRAVIS BISH
14 BRITTANY BISHOP, ESQ for STATE OF NEVADA

15
16
17 

18 _____
Judicial Assistant

Code 1350

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

TRAVIS BISH,

Case No. CR20-2911

Petitioner,

Dept. No. 9

vs.

THE JUSTICE COURT FOR SPARKS
TOWNSHIP, THE HON. JESSICA LONGLEY,
BY AND THROUGH REAL PARTY IN INTEREST,
THE STATE OF NEVADA,

Respondent.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 30th day of December, 2020, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 30th day of December, 2020.

Jacqueline Bryant
Clerk of the Court
By /s/YViloria
YViloria
Deputy Clerk