

FILED

MAY 12 2021

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Leo erick Ramsondar

Appellant,

vs.

The State of Nevada

Respondent.

Supreme Court No. 82458

District Court No. A20823374-W

**APPELLANT'S INFORMAL BRIEF**

**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may submit your brief for filing in person or by mail.

**To file your brief in person:** Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

**Carson City:** Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

**Las Vegas:** Place your brief in the Clerk's Office Drop Box at the Las Vegas courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

21-13576

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.



**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
01-22-21	order denying Defendant's petition for writ of habeas corpus

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: 02-04-2021

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

- 1] On 1-7-2020, Petitioner was sentenced to 18 to 60 months consecutive to Case No. C-334298, for a total aggregated sentence of 3 to 10 years, see Exhibit 'A' attached hereto.
- 2] Petitioner was incarcerated in pre-trial detention on 1-30-2018.
- 3] Petitioner's attorney Timothy R. Treffinger, failed to secure the appropriate time credits applied to Petitioner's

Sentence (for pre-trial detention).

4] The failure of Petitioners counsel to obtain the appropriate time credits toward Petitioners Sentence, violates the Nevada Supreme Courts decision in ADK# No. 411, Felony and misdemeanor trial cases standard 16, 17, 18 pages 39, 41, 42; and constitutes ineffective assistance of Counsel. Williams v. Taylor, 529 U.S. 362 [2000]

5] Petitioner is prejudiced by having to serve additional time in prison

~~6]~~

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

6] The district court erred in holding that Petitioner cannot claim Ineffective Assistance of Counsel (Hereinafter "IAC") for failure to secure pre-trial detention credits toward the judgment of conviction.

7] The lower court held the Petition must be limited to "IAC" in relation to the "J.O.C."

8] The attorney's failure to obtain pre-sentence credits is a challenge to the validity of the "J.O.C." not the time computation Post-Conviction. The defendant's request for jail time credits was a challenge to the computation of time he had



served. The defendant should properly have filed a petition for post-conviction habeas relief, not a post-conviction motion. However the procedural label per se was not crucial. *Pangallo -v- State*, 112 Nev. 1533, 930 P.2d 160, 112 Nev. Adv. Rep. 180, 1996 Nev. LEXIS 179 (Nev. 1996), overruled in part, *Griffin -v- State*, 122 Nev. 737, 137 P.3d 1165, 122 Nev. Adv. Rep. 163, 2006 Nev. Lexis 70 (Nev. 2006)

9] Petitioner was entitled to effective Assistance of Counsel @ sentencing

1) *Williams -v- Taylor*, 529 U.S. 362

2) *Robinson -v- Ignacio*, 360 F.3d 1044 [9<sup>th</sup> Cir. 2004]

3) *Bean -v- Calderon*, 163 F.3d 1073 [9<sup>th</sup> Cir. 1998]

4) *Porter -v- McCollum*, 588 U.S. 30 (2009)

10] Petitioners Counsel demonstrated "IAC" @ sentencing by failing to obtain appropriate pre-sentence/pre-trial detention Credits towards Petitioners sentence

11] The "IAC" demonstrated by petitioners counsel has caused actual prejudice to petitioner in that petitioner is not being provided the appropriate pre-sentence/pre-trial detention Credits towards petitioner "J.O.C." and therefore Petitioner is serving a longer period of Post-Conviction incarceration, than petitioner ought to.

12] Petitioner should have been provided a evidentiary hearing.

13] A claim of ineffective trial Counsel is generally based on factual allegations which must be explored at an evidentiary hearing, and consequently such claim is properly raised in

proceedings for post-conviction relief. Daniels-v-State, 100 Nev. 579, 688 P.2d 315, 1984 Nev. Lexis 430 (Nev. 1984). But see Varwig-v-State, 104 Nev. 40, 752 P.2d 760, 1988 Nev. Lexis 7 (Nev.), app. dismissed, 104 Nev. 876, 809 P.2d 1624, 1988 Nev. Lexis. 775 (Nev. 1988).

14] Post-conviction Petitioner was entitled to evidentiary hearing on allegations of ineffective Assistance of Counsel, in his prosecution for sexual assault where he alleged that his counsel failed adequately to oppose a motion in limine to exclude the victim's criminal record for prostitution. Drake-v-State, 108 Nev. 523, 836 P.2d 52, 108 Nev. Adv. Rep. 92, 1992 Nev. Lexis 114 (Nev. 1992).

15] Therefore Appellant Respectfully requests this Court Reverse the lower court's dismissal.

Lined area for text entry.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Appellant

Leo Erik Ramsundar  
Print Name of Appellant



### CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

☐ By personally serving it upon him/her; or

☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

N.V. AGO  
555 E. Washington Ave Suite 3900  
LAS Vegas N.V. 89101

DATED this 6 day of May, 2020.



Signature of Appellant

Leo Erik Ramsundar  
Print Name of Appellant

HDSP- P.O. Box 650  
Address

Indian Springs, N.V. 89070  
City/State/Zip

\_\_\_\_\_  
Telephone

# NOTICE OF DOCUMENT PREPERATION

I Leo Ramsundar, requested **JESSE A. ROSS #1095756 INMATE COUNSEL SUBSTITUTE** (hereinafter "ICS ROSS"), To Research, and prepare the foregoing document entitled: Appellant's Informal Brief

I LEO erick Ramsundar, understand that I am filing the above-named document, and I have read the above-named document. "ICS ROSS" ~~has answered / not answered~~, my questions to my full satisfaction.

I LEO erik Ramsundar, assert that the facts are true and correct to the best of my personal knowledge, except those statements made upon information and belief, and as to those I believe them to be true. I LEO erick Ramsundar, being the Litigant in Ramsundar V State, 8th JD, case No: NSC Docket No-82458 understand that I am responsible for the filing of the above named document; furthermore I take full responsibility for the filing of the foregoing document; and relieve "ICS-ROSS" of civil liability in connection with the research, preparation and filing of this document. "ICS ROSS" HAS ADVISED ME TO SEEK ADVICE OF A LISCENCED ATTORNEY. I Jesse A. Ross #1095756 being duly authorized (per NEVADA DEPARTMENT OF CORRECTION ADMINISTRATIVE REGULATION – 722.04{7-11} AND JOHNSON -V- AVERY 383U.S.483 {1969}); To act as inmate counsel substitute, and @ the request of LEO erick Ramsundar, After conducting an in person interview with LEO erick Ramsundar, researched and prepared the above mentioned document. I Jesse Ross believe the above mentioned document is based upon true and accurate facts as related directly to me by LEO erick Ramsundar, on 5-6-21.

By signing below both individuals agree:

- 1.) Jesse Ross is an INMATE NOT A LISCENCED ATTORNEY
- 2.) ~~Each agrees / does not agree~~ with all statements in this notice of document preparation.
- 3.) NO FEES MAY, NOR WILL BE DISBURSED OR COLLECTED

Signed under penalty of perjury 28 usc section 1746; NRS 53.045; NRS 208.165

x [Signature]  
Name Leo erick Ramsundar  
ID# 1122438 MAY 11 2021  
Date: 5-6-21  
Housing Assignment: 10-F-15

x [Signature]  
Inmate Jesse A. Ross #1095756  
counsel substitute  
Date: 5-6-21  
Housing Assignment: 10-B-22

**PROFESSIONALISM \* CIVILITY \* DILIGENCE \* COMPASSION**