

1 IN THE SUPREME COURT OF THE STATE OF NEVADA
2 The Sixth Jud. Case NO. # CR-1907088 Dept. No. # (11)

3
4 HAWK RIVERZ URBAN,) NO. #

5 Appellant/Appellate,)

6) APPEAL

7 (V),) NRAP.

8)

9 STATE OF NEVADA,)

10 Respondent/Appellee,)

11 Comes Now The Above mentioned Appellee Pro-
12 ceeding FREE NRS 12.015, informal pauperis (see)
13 Title 28 USC § 1915, Rowland v. California Men's Colony
14 506 US § 194, 199-209 (1993), Currently The Appellant
15 is not Trained in the Letter of the Law, so this
16 Appeal shall be Liberally Construed (see) Erickson
17 v. Pardus, 551 US § 89, 94-95 (2007) The Appellant
18 is being restrained illegally against his Life, -
19 Liberty, and Property, (see) The Equal Protection of
20 the Law, and Clause to the XIVth Am^t to
21 the United States Constitution

22 (ARGUMENT)

23 Basically in a Nutshell, The Argument with
24 Honorable Judge Michael R. Montero, dealt with
25 the Lawfulness of the so called Nevada Revised
26 Statutes, Which were severely Altered in 1951
27 illegally (see) Nevada Highway Patrol Assn v.
28 Nevada Dept. Motor Vehicle & Public Safety
29 107 NV 547, 549, 815 P.2d 608, 609 (1991) The

RECEIVED
NOV 02 2020
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
STATE OF NEVADA

Electronically Filed
Dec 01 2020 10:34 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

FILED
NOV 20 PM 1:29
CLERK

1. The Laws have no force or effect, Primarily
2. because The Respondent, Appellee is under
3. the Assumption that the Nevada Revised
4. Statute are real and Positive Law, which
5. couldn't have any force and effect, Accord-
6. ing to this Court, and the Ninth Circuit
7. Court of Appeals, because as Walter Richard
8. Turantino, pointed out in Nevada Highway
9. Patrol Assoc, because it did not include the
10. enactment language, Which Only can be
11. enacted for the People by the Legislature,
12. Not Three Supreme Court Justices, and
13. Russell W. MacDonald selected from the
14. State Bar, to present Senate Bill 182
15. and concurrent resolutions to the legislature
16. Even Alan Bible, then Attorney General weighed
17. in advocating, and illustrating, that the Whole
18. Process, and Procedure was unconstitutional -
19. (see) Bible v. Malone, 68 Nev. 32, 231 P.2d. 599
20. (1951) (see) ABO Opinion (1951 ABO-85) that
21. Such a Process is Not Lawful

22. ~~Conclusion~~ →

23. The Real Problem with Nevada, is that they
24. were never admitted into the Union, the only
25. thing is that When they created the Treaty
26. of Guadalupe Hidalgo, (1848) 11 Stat 347, in
27. Mexico City With Fr Manuel Hidalgo and The
28. Navajo Leader Mannulito and his wife Juavita
29. along with the Yaquis, Torg, Mayans, Comanches
(2). continued →

1. that this was decided by The Spanish King &
2. Queen to Claim these several 8 States, called
3. as Mexican Territory, NV, NM, AZ, CA, TX, CO, UT, VT
4. Which was decided in Joseph v. United States,
5. 94 US 614, 24 L Ed. 295 (1876) What was deter-
6. mined here in this U.S. Supreme Court
7. The Taos Pueblo, et al Antonio Joseph "said", The
8. U.S. Congress declared that All Indian Lands
9. must be respected, and the only way to remove
10. their Abodial Title, with the Abrogation or re-
11. linquishment of "said" Treaty Land, of The Treaty
12. of Guadalupe Hidalgo (1848) This did not occur
13. And There was never any land assigned to the
14. United States, because the Primary Problem
15. Which still exists today, The United States of
16. America, Inc., was set aside in (1871) ch 62, -
17. Session III, 16 Stat 419, 42nd Congress, -
18. Signed By President Ulysses S. Grant, which
19. was ultimately registered to Wilmington, Dela-
20. ware file no (#) 29652 reg. 2-18-89, I am not -
21. totally sure why? But The Pope Francis of Assisi
22. claimed that there was never any Law, Rules
23. Codes, or Statutes, all of this was created
24. by Fiction, The Holy Roman Catholic Church -
25. created the concept of Legal Fiction (2013).
26. from The Time When The Church re-surfaced
27. from Spain (1302) Pope Boniface VIII created
28. this new Ponzi scheme, since the time of
29. the fall of Rome 167 AD. because of Visigoths.

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So Another non-published agreements that we're instituted with Nevada inmates, MY Tribe should have been more aware of Federal and International Treaties, But at no-time was our Land taken into fee simple, from Federal Trust Lands, because it's impossible.

The Respondent-Appellee really has no Standing, because Nevada could not have been Annexed Through Pres. Abraham Lincoln's Administration, because all Legal Activities, such as Habeas Corpus were - Suspended. (see) 3 Cruise's Dig P. 109 § 5 or Ex Parte Crow Dog (1883) There was NO Proper Protocol, in informing the Tribe that they must see if the Appellant violated the Badman Clause to the Tribal Constitution, than released to the Appellee, for Adjudication under The Uniform Probate Code. to ensure more business for the State of Nevada, who borrowed money to the Casino's, So I Appeal That The Appellee has No Standing, -

The Appellant's Lawyer was discharged at the end of my Proceedings, Plus Maureen McQuillan, is a registered member of the BKR British Accreditation Registry, conflict of interest, discharged after legal proceedings. And foreign agent conflict with the Wth Amet
(f) Continued →

1. (see) Gideon v. Wainwright, 372 U.S. 335, 342 (1963)
2. So The Honorable Judge Michael R. Montero
3. had indicated in this Dissent, or Order dated
4. October 23, 2020, indicated on Page 14-15
5. That No Ruling we'll be made until the State
6. District Attorney, or Attorney General responds
7. in the form of a rebuttal, and no Hearing
8. was set, no notice of Appeal given, no post
9. conviction, The Public Defender was finished
10. the State isn't going to keep paying her salary.
11. WHEREAS The Appellee Lacks Subject
12. Matter Jurisdiction (see) U.S. v. Cotton 535
13. U.S. 87, 89 625, 630, 122 S. Ct. 1781 (2002) and
14. State v. Rogers, 10 NV 250 (NV 1875) There is
15. irrefutable evidence and factual proof by
16. Prior Opinions as listed, that when Laws fail,
17. they are unlawful and unconstitutional, (see)
18. Ex parte Young 209 U.S. 129 @ 130, 84 S. Ct. 221
19. (1902), Which may be raised at any time, no
20. latches, or time limit. (see) State v. Staley 112
21. Nev. 704, 918 P.2d 396, 398 (1990) and Edwards
22. v. State, 112 Nev. 04, 918 P.2d. 321, 324 (1996), to
23. Suspend, Vacate "and" Sentence with prejudice
24. The real reason the State modified all the
25. Statutes, Perhaps we'll Contact Justice's,
26. Milton B. Baulty, Edgar Eather, Charles Merrill
27. and Russell West or Donald, in (1951) The
28. Real reason was to coincide with the Power
29. of Appointment Act 65 Stat 91, placed us as

1 POW) Prisoner's of Wars, when they came by
2 The US House holds to Collect Gold And Silver
3 for WWII and Vietnam, but neither here
4 or there, Our Birth Registration Forms from
5 the Hospitals were mortgaged and that ultimately
6 were pledged to the Vatican to Provide the Gold
7 Standard for the Federal Reserve Dollars, but
8 What is unclear from the 1992 Coin Act, was
9 President Johnson's (1965) Coinage Act, which
10 Richard Nixon withdrew in (1971) But The
11 Tribes have a Mint And Refinery doing coins.
12 I move that since the (2015) Joint Proclamation
13 Act with Pope Francis of Assisi in Philadelphia
14 Pennsylvania, for the Double Jeopardy, or
15 the Double Jubilee Lev. 25:13 so we are
16 not debtors no longer but creditor's with our
17 full faith and credit Title 26 USC § 2041, The -
18 Appellee's also lack both required Blanket -
19 Fidelity Bonds to ensure the Adjudication, and
20 the Judicial Process, from Justice of the Peace
21 And Prosecutor (see) NR 5.282.040, and 4.030, (see)
22 Lack of Performance Bonds, (see) Norton v. Shelby
23 County, 118 US § 425, 441-42, 6 S Ct 1121, 30 L Ed. 178
24 1886 This is My Appeal, I Submit
25 Respectfully,

26
27 #1225009 Appellant/prose Hawk Riverz Urban
28 Prepared By NVLL - A/6 Box # (1000)
29 LCFA Horse esaire (Carson City - NV. (89102)
Tribal (6).

Case No. CR1907088

Dept. No. 2

FILED

2020 NOV 20 PM 2:19

Spew
JAN 22 2021
DISTRICT COURT CLERK

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF HUMBOLDT

The State of Nevada,)
Defendant.)
-vs-)
Hawk Riverz Urban,)
Plaintiff,)

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement: Hawk Riverz Urban
2. Identify the judge issuing the decision, judgment, or order appealed from: Honorable Michael R. Montero
3. Identify each appellant and the name and address of counsel for each appellant: Hawk Riverz Urban appearing In Proper Person - #1225009 Northern Nevada Correctional Center 1721 East Snyder Ave - PO Box 7000 Carson City NV 89702
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel): State of Nevada - Humboldt County District Attorney PO Box 909 Winnemucca, NV 89446
5. Indicate whether any attorney identified above in response to question 3 or 4 Is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission): N/A

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:
Appointed
7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Appearing in
Proper Person
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date entry of the
district court order granting such leave: No
9. Indicate the date the proceedings commenced in the district court (e.g. date complaint, indictment,
information, or petition was filed): July 12, 2019
10. Provide a brief description of the nature of the action and result in the district court, including the
type of judgment or order being appealed and the relief granted by the district court: Defendant was
convicted of Battery Upon a Peace Officer, a Category B Felony based on a plea agreement on
August 10, 2020; subsequently the Defendant filed a Motion for Illegal Sentence per NRS 176.556
and the Court entered an Order Denying Petition of Writ of Habeas Corpus on October 23, 2020
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding
in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior
proceeding: No
12. Indicate whether this appeal involves child custody or visitation: No
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: N/A

Dated this 20th day of November, 2020.



Humboldt County Clerk
50 W. 5th St. #207
Winnemucca, NV 89445
(775) 623-6343

Sixth Judicial District Court - Humboldt County

Run: 11/20/2020
17:10:15

Case Summary

Page 1

Case #: CR1907088

Judge: MONTERO, MICHAEL R.

Date Filed: Department:

Case Type: FELONY/PERSON

Plaintiff(s)

NEVADA, THE STATE

Attorney(s)

DISTRICT ATTORNEY

Defendant(s)

URBAN, HAWK RIVERZ

Attorney(s)

ALTERNATE PUBLIC DEFENDER

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
02/27/2020	ADMIN	\$25.00	\$0.00	\$0.00	\$25.00
02/27/2020	ATTYFEE	\$250.00	\$0.00	\$0.00	\$250.00
08/11/2020	DNA	\$150.00	\$0.00	\$0.00	\$150.00

Charge: NRS 200.481(2) (F) BATTERY BY PRISONER UPON A PEACE F/B Count 1

Sent: The Court reinstated Defendant on probation for a period of thirty-six (36) months, under the Defendant's 458.290 diversion program w/special conditions. def to enter in and successfully complete the salvation army program and remain in custody and be transported to and from the program by law enforcement personnel. upon completion of inpatient treatment def begin drug court. pay \$3 dna/3, \$25 AA, w/in 30 days from completion of salvation army pay to humboldt county clerk. \$250 public defender w/in 6 months from completion of salvation army pay to humboldt county clerk, restitution \$20 to humboldt county treasurer w/in 30 days from completion of salvation army

Disp/Judgment: Date:

Hearings:

Date	Time	Hearing
08/13/2019	9:30AM	ARRAIGNMENT
10/08/2019	9:30AM	SENTENCING HEARING
10/22/2019	9:30AM	SENTENCING HEARING
02/11/2020	9:30AM	HEARING
02/18/2020	9:30AM	SENTENCING HEARING
07/28/2020	10:00AM	PROBATION VIOLATION HEARING

Filings:

Date	Filing
07/12/2019	JUSTICE COURT PROCEEDINGS (19-CR-00392)
07/12/2019	Legacy Images
07/24/2019	INFORMATION
07/25/2019	Legacy Images
08/13/2019	GUILTY PLEA AGREEMENT

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17:10:18

Case Summary

Page 2

08/13/2019 AMENDED INFORMATION
08/15/2019 MINUTES (ARRAIGNMENT)
08/15/2019 Legacy Images
08/15/2019 Legacy Images
08/15/2019 Legacy Images
09/13/2019 STIPULATION OF THE PARTIES PURS TO NRS 176A.780 REG DISP PRO
09/27/2019 PRESENTENCE INVESTIGATION REPORT (2) (CONFIDENTIAL)
10/08/2019 MINUTES - SENTENCING HEARING
10/16/2019 Legacy Images
10/21/2019 SENTENCING HEARING SET FOR 10/22/2019 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
10/21/2019 APPLICATION FOR TREATMENT PURSUANT TO NRS 458.290-350 AND NRS 176A.780
10/22/2019 MINUTES - SENTENCING HEARING
11/01/2019 ORDER SUSPENDING FUTHER PROCEEDINGS PURSUANT TO NRS 458.290
11/01/2019 ORDER (BOOT CAMP)
11/07/2019 PROSECUTOR: DISTRICT ATTORNEY ASSIGNED
11/13/2019 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CR1907088, THE STATE OF NEVADA VS. URBAN, HAWK RIVERZ WITH 1 ATTACHMENTS FROM DOCKETS FREETYPE-11/1/2019
11/13/2019 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CR1907088, THE STATE OF NEVADA VS. URBAN, HAWK RIVERZ WITH 1 ATTACHMENTS FROM DOCKETS FREETYPE-11/1/2019
11/13/2019 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CR1907088, THE STATE OF NEVADA VS. URBAN, HAWK RIVERZ WITH 1 ATTACHMENTS FROM DOCKETS FREETYPE-11/1/2019
11/18/2019 ORDER ADMITTING DEFENDANT TO PROBATION AND FIXING TERMS THEREOF
01/24/2020 HEARING SET FOR 02/11/2020 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
01/24/2020 STATUS HEARING
02/11/2020 SENTENCING HEARING SET FOR 02/18/2020 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
02/11/2020 MINUTES - STATUS HEARING
02/13/2020 VIOLATION REPORT
02/18/2020 MINUTES-SENTENCING HEARING
02/27/2020 ORDER REINSTATING PROBATION
02/27/2020 CHARGE CNT 1 SENTENCING NOTES: THE COURT REINSTATED DEFENDANT ON PROBATION FOR A PERIOD OF THIRTY-SIX (36) MONTHS, UNDER THE DEFENDANT'S 458.290 DIVERSION PROGRAM W/SPECIAL CONDITIONS. DEF TO ENTER IN AND SUCCESSFULLY COMPLETE THE SALVATION ARMY PROGRAM AND REMAIN IN CUSTODY AND BE TRANSPORTED TO AND FROM THE PROGRAM BY LAW ENFORCEMENT PERSONNEL. UPON COMPLETION OF INPATIENT TREATMENT DEF BEGIN DRUG COURT. PAY \$3 DNA/3, \$25 AA, W/IN 30 DAYS FROM COMPLETION OF SALVATION ARMY PAY TO HUMBOLDT COUNTY CLERK. \$250 PUBLIC DEFENDER W/IN 6 MONTHS FROM COMPLETION OF SALVATION ARMY PAY TO HUMBOLDT COUNTY CLERK, RESTITUTION \$20 TO HUMBOLDT COUNTY TREASURER W/IN 30 DAYS FROM COMPLETION OF SALVATION ARMY
03/02/2020 ORDER ADMITTING DEFENDANT TO PROBATION AND FIXING THE TERMS THEREOF
07/15/2020 PROBATION VIOLATION HEARING SET FOR 07/28/2020 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
07/15/2020 NON-TECHNICAL VIOLATION REPORT
07/28/2020 MINUTES-PROBATION VIOLATION HEARING

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17:10:18

Case Summary

Page 3

08/10/2020	JUDGMENT OF CONVICTION
08/14/2020	NEVADA SHERIFF'S RETURN
08/27/2020	DEFENSE ATTORNEY: ALTERNATE PUBLIC DEFENDER ASSIGNED
09/15/2020	MOTION FOR ILLEGAL SENTENCE NRS 176.556
09/15/2020	MOTION FOR APPOINTMENT OF COUNSEL
10/23/2020	ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS
11/20/2020	APPEAL NRAP
11/20/2020	CASE APPEAL STATEMENT

1 CASE NO. CR 1907088

2 DEPT. NO. II

FILED

2020 OCT 23 PM 1:05

TAMI RAE SPERO
DIST. COURT CLERK

C. Smak

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5 **IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA**

6 **IN AND FOR THE COUNTY OF HUMBOLDT**

7 -o0o-

8 HAWK RIVERZ URBAN,

9 Petitioner,

10 vs

ORDER DENYING
PETITION FOR WRIT
OF HABEAS CORPUS

11 THE STATE OF NEVADA,

12 Respondent.

13 _____/
Before this Court is Petitioner's *Motion for Illegal Sentence* filed on September
14 15, 2020. Petitioner also filed a *Motion for Appointment of Counsel* on September 15,
15 2020. The State has yet to file a response to this current *Motion* and no hearing is set
16 pertaining to this matter.

17 **STATEMENT OF FACTS**

18 On August 13, 2019, Petitioner, Hawk Riverz Urban, pleaded guilty to **TWO**
19 **(2) COUNTS of BATTERY UPON A PEACE OFFICER**, a category B Felony.
20 Judgment of Conviction at 1, *State v. Urban*, Case No. CR 1907088 (Aug. 10,
21 2020). On October 22, 2019, this Court suspended further proceedings pursuant to
22 NRS 458.290 and placed Petitioner on probation for a period not to exceed thirty-six
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1 (36) months with special conditions. *Id.* at 2. On February 18, 2020, a Probation
2 Violation Hearing took place before this Court where Petitioner admitted to
3 violating this Court's condition to enter into and complete the Regimental Discipline
4 Program. *Id.* This Court thereby reinstated Petitioner's probation for a period of
5 thirty-six (36) months with added conditions. *Id.*

6 On July 28, 2020, a Non-Technical Probation Violation Hearing took place in
7 this Court where Petitioner admitted to a violation of the following conditions:
8 reporting, residence, intoxicants, laws, employment/program, financial obligation,
9 special condition that Petitioner abstain from alcohol, special condition that
10 Petitioner resolve his outstanding warrant, special condition that Petitioner pay a
11 DNA collection fee, an administrative assessment fee, and public defender fee,
12 special condition that Petitioner complete the Salvation Army Program, and special
13 condition that Petitioner reside off the Indian Colony. *Id.* at 5. This Court then
14 revoked Petitioner's probation and sentenced Petitioner to serve his original
15 sentence of a minimum term of sixteen (16) months and maximum term of forty
16 (40) months in the Nevada State Prison, with credit for time served of two hundred
17 sixty-six (266) days. *Id.*

18 On September 15, 2020, Petitioner filed a *Motion for Illegal Sentence* on the
19 basis that Nevada never formally established statehood, and therefore Petitioner is
20 illegally incarcerated under illegitimate Nevada law. Petitioner's Motion for Illegal
21 Sentence at 2, *Urban v. State*, Case No. CR 1907088 (Sept. 15, 2020). Petitioner
22 claims that Nevada was never established as a state pursuant to the Treaty of
23
24

1 Guadalupe of Hidalgo, and that Nevada is “attached to the Territory of Arizona,
2 which was never legally annexed into the United States. *Id.* Furthermore, Petitioner
3 contends that the Tribes entered into a ninety-nine (99) year lease with Arizona in
4 order for Nevada to exist. *Id.* Petitioner also claims that the Nevada Revised Statutes
5 (NRS) were illegally submitted to Congress under the quasi-legislative function, and
6 therefore have no effect. *Id.*

7 In citing U.S. Supreme Court case *Ex Parte Young*, Petitioner states that
8 “there is irrefutable evidence and factual proof by prior opinions, that when laws
9 fail, there is no jurisdiction, and the whole legal procedure is unlawful and
10 unconstitutional.” *Id.* at 3. Moreover, Petitioner argues that the NRS were abolished
11 in 1963 and that this Court lacks subject matter jurisdiction, meaning Petitioner’s
12 judgment of conviction and sentence must be vacated with prejudice. *Id.* at 2-3.

13 On September 15, 2020, Petitioner also filed a *Motion for Appointment of*
14 *Counsel* to litigate the subject matter of this current *Motion*. The *Judgment of*
15 *Conviction* was filed on August 10, 2020, and Alternate Public Defender Maureen
16 McQuillan has yet to file a motion to withdraw from this matter.

17 DISCUSSION

18 I. Legitimacy of the State of Nevada

19 Here, Petitioner contends that the NRS and, in turn, the Constitution of the
20 State of Nevada are illegitimate, since Nevada was never established as a state
21 pursuant to the Treaty of Guadalupe of Hidalgo. However, it is well established that
22

1 The Treaty of Guadalupe Hidalgo, signed on February 2, 1848
2 and entered into force on May 30, 1848, signaled the formal
3 end of the Mexican-American War. The United States and
4 Mexico signed the treat of Guadalupe Hidalgo, in which
5 Mexico ceded land that includes ... the present-day state of
6 [Nevada] to the United States ... Courts in the United States
7 have uniformly found that title to the land first passed to the
8 United States through the Treaty.” *Robinson v. Salazar*, 838
9 F.Supp.2d 1006, 1017 (E.D. Cal. 2012) (citing *U.S. v.*
10 *California*, 436 U.S. 32, 34 (1978) (“*all nongranted lands*
11 *previously held by the Government of Mexico passed into the*
12 *federal public domain*”) (emphasis added).

13 In 1861, the U.S. Congress organized the territory of Nevada, and provided a
14 southern boundary as such: “running south on the line of said thirty-ninth degree of
15 west longitude, until it intersects the *northern boundary line of the Territory of New*
16 *Mexico*; thence due west to the dividing ridge separating the waters of Carson Valley
17 from those that flow into the Pacific.” NEV. REV. STAT. NV ACT OF CONGRESS (1861)
18 Ch. LXXXIII, § 1 (emphasis added). Petitioner contends that Nevada is attached to
19 the Territory of Arizona, which was never legally annexed to the United States.
20 However, U.S. Congress clearly delineated boundaries for the State of Nevada
21 separate from the New Mexico territory that would eventually become the State of
22 Arizona in 1912. *See* ARIZ. REV. STAT. CONST. REFS & ANNOS. The State of Nevada
23 is therefore separate from the Territory of Arizona.

24 In addition, the U.S. Congress provided that

[N]othing in this act contained shall be construed to impair the
rights of person or property now pertaining to the Indians in
said Territory, so long as such rights shall remain
unextinguished by treaty between the United States and such
Indians, or to include any territory which, by treaty with any
Indian tribe, is not, without the consent of said tribe, to be

1 included within the territorial limits or jurisdiction of any State
2 or Territory. NEV. REV. STAT. NV CONST. ACT OF CONGRESS
(1861) Ch. LXXXIII, § 1.

3 Thus, the establishment of the Nevada territory excluded any territory belonging to
4 any Native American tribe. This evidence refutes Petitioner's claim that the Tribes
5 entered into a ninety-nine (99) year lease with Arizona in order for Nevada to exist.

6 Furthermore, the U.S. Congress enabled the People of Nevada to form a
7 Constitution and a State Government. NEV. REV. STAT. NV CONST. ACT OF
8 CONGRESS (1861) Ch. XXXVI. This, in turn, allowed for the formation of a legislative
9 branch, which then established the NRS. *Id.* Petitioner claims that the creation of the
10 NRS was done under the quasi-legislative function. However, quasi-legislative is
11 defined as "A legislative-like act undertaken by an entity other than a legislature."¹
12 The NRS were clearly established by the Nevada Legislature, not some other entity.
13 Thus, no quasi-legislative function was exercised, and the NRS are therefore valid.

14 Lastly, in 1864, President Abraham Lincoln officially declared and proclaimed
15 Nevada a state of the Union. NEV. REV. STAT. NV CONST. PRESIDENTIAL
16 PROCLAMATION (1864). Consequently, Petitioner fails to establish that the State of
17 Nevada or the NRS are illegitimate.

18 **II. Subject Matter Jurisdiction**

19 NRS 171.010 provides that "Every person, whether an inhabitant of this state,
20 or any other state, or of a territory or district of the United States, is liable to
21

22 ¹ Legal Info. Inst., *Quasi-legislative Definition*, Cornell L. Sch. (Sept. 16, 2020)
23 <https://www.law.cornell.edu/wex/quasi-legislative>

1 punishment by the laws of this state for a public offense committed therein, except
2 where it is by law cognizable exclusively in the courts of the United States.” Here,
3 Petitioner pleaded guilty to two (2) counts of Battery Upon a Peace Officer. This
4 Court then suspended Petitioner’s sentence and placed Petitioner on probation.
5 Petitioner then violated said probation and this Court sentenced Petitioner to his
6 original suspended sentence.

7 In *Landreth v. Malik*, the Supreme Court of Nevada found that “As an initial
8 matter, whether a court lacks subject matter jurisdiction ‘can be raised by the parties
9 at any time, or sua sponte by a court of review, and cannot be conferred by the parties.
10 However, if the district court lacks subject matter jurisdiction, the judgment is
11 rendered void.” 127 Nev. 175, 179-80 (2011). “Subject matter jurisdiction is ‘the
12 court’s authority to render a judgment in a particular category of case.’” *Id.* at 183.

13 The Constitution of the State of Nevada provides that “The District Courts in
14 the several Judicial Districts of this State have original jurisdiction in all cases
15 excluded by law from the original jurisdiction of justices’ courts.” NEV. REV. STAT.
16 CONST. ART. 6, § 6. This original jurisdiction includes “all criminal cases not
17 otherwise provided for by law.” *Moore v. Orr*, 98 P. 398, 398 (Nev. 1908). Petitioner
18 committed the crime of Battery Upon a Police Officer in the State of Nevada. Thus,
19 this Court has subject matter jurisdiction over Petitioner’s criminal case and properly
20 exercised its power to enter a judgment of conviction upon Petitioner and sentence
21 him accordingly.

1 **III. Petitioner's Motion is Procedurally Improper**

2 Absent a motion to withdraw as appointed counsel, it appears to the Court
3 that Petitioner is currently represented by Maureen McQuillan. It is well-established
4 that a person represented by counsel cannot file pro se motions. *U.S. v. Gallardo*,
5 915 F. Supp. 216, 217-218 (D. Nev. 1995). Petitioner's pro se *Motion for Illegal*
6 *Sentence* is therefore procedurally improper.

7 **CONCLUSION**

8 Absent a showing that the State of Nevada or the NRS are illegitimate, or that
9 this Court lacks subject matter jurisdiction over Petitioner's case, Petitioner's claims
10 remain unfounded. This Court therefore declines to vacate Petitioner's judgment of
11 conviction and sentence. Petitioner is also currently represented by Maureen
12 McQuillan, and a pro se motion is procedurally improper. Accordingly, Defendant's
13 *Motion to for Illegal Sentence* is hereby **DENIED**.

14 **IT IS SO ORDERED.**

15 DATED: October 23, 2020.

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19 HONORABLE MICHAEL R. MONTERO
20 DISTRICT JUDGE
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Hawk Riverz Urban #1225009
Northern Nevada Correctional Center
P.O. Box 7000
1721 E. Snyder Avenue
Carson City, Nevada 89702
Via U.S. Mail

Humboldt County District Attorney's Office
P.O. Box 909
Winnemucca, Nevada 89446
Hand-delivered to Humboldt County Courthouse, DCT Box

8

CR1907088

The State of Nevada VS. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Mikayla Mecham

July 28, 2020

PROBATION VIOLATION HEARING

PRESENT: Richard Haas, Deputy District Attorney, present on behalf of the State. Debbie Okuma, DPS Specialist III, present (via Zoom) on behalf of the Division of Parole and Probation. Defendant, present (in custody via Zoom) with Counsel, Maureen McQuillan, Alternate Public Defender.

The record reflected that this matter comes before the Court for a probation violation plea hearing. The Court gave some procedural history of this case. A Non-technical Violation Report was filed on July 15, 2020; copies had been received. The Court informed the Defendant of the purpose of today's hearing.

The Defendant stated his understanding.

The Defendant had previously plead GUILTY to the charge of BATTERY BY PRISONER UPON PEACE OFFICER, a Category B Felony, in violation of NRS 200.481 (2)(f). On November 1, 2019 The Court entered an Order Suspending Further Proceedings pursuant to NRS 458.290, and ordered that the Defendant enter into and successfully complete the Nevada Department of Corrections Program of Regimental Discipline. The Court received a letter from the NDOC indicating that the Defendant had been rejected from the Program of Regimental Discipline on January 15, 2020. A probation violation report was filed on February 13, 2020, and on February 18, 2020 a hearing was held in which the Defendant admitted to violating the terms of his probation. The Court re-instated the Defendant's probation, and ordered that the Defendant enter into the Salvation Army. The Defendant was later terminated from the Salvation Army, and failed to report to the Division of Parole and Probation. The Defendant was arrested on new charges arising out of an incident on the reservation, and now comes before the Court for violating his probation.

The Defendant entered his pleas as follows: Rule #1, Reporting-admit. Rule #2, Residence-admit. Rule #3, Intoxicants-admit. Rule #9, Laws-admit. Rule #11, Employment-admit. Rule #12, Financial Obligations-admit. Rule #13, Special Condition #1-admit. Rule #13, Special Condition #8-admit. Rule #13, Special Condition #9-admit. Rule #13, Special Condition #10-admit. Rule #13, Special Condition #12-admit. Rule #13, Special Condition #14-admit.

The Court asked Okuma if those were all the alleged violations.

Okuma concurred.

The Court examined the Defendant and accepted his admissions.

The Court asked if the parties prepared to proceed to disposition.

The parties concurred.

Argument by McQuillan.

Argument by Haas.

A discussion ensued regarding credit for time served. McQuillan offered her calculation of two hundred sixty-six (266) days. The court accepted that calculation.

The Defendant exercised his right of allocution.

No victim impact information available.

The Court rescinded the Defendant's probation, and ordered that the Defendant carry out the underlying sentence of a minimum term of sixteen (16) months and a maximum term of forty (40) months in the Nevada Department of Corrections, with credit for time served in the amount of two hundred and sixty-six (266) days. The Court further ordered the Defendant to pay the fines and fees previously ordered in this case, \$3.00 DNA collection fee, \$25.00 administrative assessment fee, and \$250.00 public defender fee.

Okuma informed the Court that the Defendant's DNA had been collected, and that the Defendant would be required to pay the \$150.00 DNA analysis fee as well.

The Court also ordered that the Defendant pay the \$150.00 DNA analysis fee.

CR1907088

The State of Nevada VS. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Mikayla Mecham

February 18, 2020

SENTENCING HEARING

PRESENT: Richard Haas, Deputy District Attorney, present on behalf of the State. Debbie Okuma, DPS Specialist III, present on behalf of the Division of Parole and Probation. Defendant, (in custody) with Counsel, Humboldt County Alternate Public Defender, Maureen McQuillan.

The record reflected that this matter comes before the Court for sentencing.

The Court informed the Defendant of the purpose of the hearing.

The Defendant stated his understanding.

The Defendant had previously pled GUILTY to the charge of BATTERY BY PRISONER UPON A PEACE OFFICER, a Category B Felony, in violation of NRS 200.481(2)(f). This Court had suspended further proceedings and ordered that the Defendant enter and successfully complete a regimental discipline program, and be placed on a term of probation while in the program. The Court was in receipt of a letter from the Nevada Department of Corrections stating that the Defendant was being rejected from the program.

McQuillan stated that a probation violation had been filed since the last hearing.

The Court stated in that case, he would like to proceed with a probation violation hearing. Copies of the violation report had been received. The Court stated the possible outcomes. The Court further informed the Defendant of his Constitutional Rights.

The Defendant entered his pleas as follows: Rule #8-Directives and Conduct; admitted. Rule #13-Special Conditions (1), That the Defendant enter and successfully complete Regimental Discipline Program; admitted.

The Court examined the Defendant and accepted his admissions.

DISPOSITION

The Court stated a Pre-Sentence Investigation Report (PSI) had been prepared on September 19, 2019 and filed on September 27, 2019; copies had been received.

Defendant's Exhibit A-Salvation Army Approval Letter, marked, offered, and admitted.

Argument by McQuillan.

Argument by Haas.

Okuma updated the Court as to the Defendant's credit for time served, in the amount of 241 days.

The Defendant exercised his right of allocution.

The Court ordered that the Defendant's probation be reinstated, and granted the diversion program, pursuant to NRS 458.290. The Court placed the Defendant on a term of probation for thirty-six (36) months, and ordered that the Defendant enter the Salvation Army program as part of his probation. The Court directed McQuillan to call the director and find out a bed date. Once the Defendant completes the Salvation Army program, the Defendant is to return to Winnemucca to participate in the Humboldt County Drug Court Program for eighteen (18) months.. All further proceedings against the defendant are suspended and the defendant was placed on a term of probation for thirty-six (36) months with the following special conditions:

1. That the Defendant completely abstain from the use, consumption, purchase, or possession of alcoholic beverages or controlled substances, to include marijuana in any form, whatsoever;
2. That the Defendant completely abstain from the use, consumption, purchase, or possession of any inhalant, chemical, poison, or solvent, with the intent to induce euphoria, hallucinations, or impair mind or bodily functioning whatsoever;
3. That the Defendant completely abstain from the use, consumption, purchase or possession of any over-the-counter medications that contain alcohol or narcotics, unless prescribed by a licensed medical professional, and with prior approval of the Defendant's supervising officer and Drug Court personnel;
4. That the Defendant completely abstain from being present in any cocktail lounge, bar, liquor store, casino, or any establishment where alcoholic beverages are the primary source of revenue whatsoever;
5. That the Defendant completely abstain from being present in any smoke shop, vape shop, or marijuana dispensary whatsoever;
6. That the Defendant submit to an intensive supervision program, to include electronic monitoring whenever deemed appropriate by the Division of Parole and Probation;
7. That the Defendant submit any digital storage media that he has access to or uses (computers, cell phones, tablets, network applications, any programs associated with those devices, etc.) and provide all passwords, unlock codes, and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agent;
8. That the Defendant resolve his outstanding warrant in the Sparks Municipal Court;
9. That the Defendant pay a \$3.00 DNA collection fee, and a \$25.00 administrative assessment fee, payable to the Humboldt County Clerk of the Court within thirty (30) days of the Defendant's completion of inpatient treatment;
10. That the Defendant pay a \$250.00 public defender fee, payable to the Humboldt County Clerk of the Court within six (6) months of Defendant's completion of inpatient treatment;
11. That the Defendant pay restitution in the amount of \$20.00, payable to the Humboldt County Treasurer within thirty (30) days of the Defendant's completion of inpatient treatment;
12. That the Defendant enter in and successfully complete the Salvation Army Program. That the Defendant remain in custody and be transported to and from the program by law enforcement personnel. Upon completion of inpatient treatment, the Defendant is to begin the Humboldt County Drug Court Program, immediately;
13. That the Defendant successfully complete the Humboldt county Drug Court Program;
14. That the Defendant must reside where Parole and Probation have the ability to supervise the Defendant for the entire term of the Defendant's probation;

15. That the Defendant not be granted any good time credits or an early release from probation unless all of his Court-ordered, supervision, and Drug Court fines and fees are paid in full, and his conditions of probation are met. In addition, if the Defendant's fines and fees are not paid in full, and/or his conditions of probation are not met at the end of his probation period; that the Defendant's probation term be extended up to five years until he fulfills those obligations.

CR1907088

The State of Nevada vs. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Jody Clark

FEBRUARY 11, 2020

STATUS HEARING

PRESENT: Max Stovall, Humboldt County Deputy District Attorney, present on behalf of the State. Defendant (Custody) present with counsel, Maureen McQuillan, Humboldt County Alternate Public Defender. Debbie Okuma and Elizabeth Hill, Parole and Probation Officers, present on behalf of the Adult Parole and Probation Office.

The record reflected that this matter comes before the Court for a Status Hearing. The record further stated that the Defendant had previously plead Guilty to BATTERY BY PRISONER UPON A PEACE OFFICER, a Category B Felony, in violation of NRS 200.481(2) (f). This matter was suspended on October 22, 2019, and the Defendant was ordered to successfully complete the Regimental Boot Camp. The Court received a letter from the Nevada Department of Corrections indicating the Defendant was rejected from Regimental Boot Camp on January 15, 2020.

The Court asked counsel if they would like the letter admitted as an exhibit.

Stovall submitted the issue to the Court.

McQuillan stated she is not asking the letter to be admitted.

The Court asked the same of Okuma.

Okuma stated she is not prepared to respond.

The Court would like to set this matter for a continued sentencing. The Court needs to decide if the Defendant still qualifies under conditions to suspend sentencing.

McQuillan would not object to a continued sentencing in the near future.

The Court would like counsel to come back before the Court to inform the Court what sentencing would now mean considering the circumstances. He would also like Parole and Probation to look at the need for a violation report.

The Court set this matter for a Continued Sentencing on Tuesday, February 18, 2020, at 9:30 a.m.

CR 19-7088

The State of Nevada vs. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Jody Clark

OCTOBER 22, 2019

SENTENCING HEARING

PRESENT: Max Stovall, Deputy District Attorney, present on behalf of the State. Defendant (Custody) with counsel, Matthew Stermitz, Humboldt County Public Defender. Debbie Okuma DPS Specialist III, present on behalf of the Division of Parole and Probation.

The record reflected that this matter had been continued from October 8, 2019, to allow time for the Defendant to obtain a substance abuse evaluation for forensic purposes. The record further stated that an Application for Treatment had been filed on October 18, 2019.

The Defendant previously plead Guilty to the charge of TWO COUNTS – BATTERY BY PRISONER UPON A PEACE OFFICER, a Category B Felony, in violation of NRS 200.481(2) (f). Copies of the Pre-Sentence Report had been received with attachments.

Stovall informed the Court that the cost of an ankle brace for the office was in the amount of \$20.00.

McQuillan concurred with the cost.

McQuillan informed the Court that the Defendant would like to go to Regimental Boot Camp and if successful diversion of his sentence.

Stovall concurred.

Okuma addressed the Court regarding a matter of housekeeping and informed the Court the Defendant has one hundred and twenty-two (122) days credit for time served.

Counsel concurred.

The Defendant exercised his right to allocution.

The Court granted the application for diversion. The Court further wants the Defendant to understand that he is not at the end of the road today.

The Defendant stated his understanding.

The Court ordered this matter be suspended and further ordered the Defendant is to successfully complete Regimental Boot Camp. Once the Defendant has successfully completed boot camp he is to come back before the Court to have the Court determine what other conditions may be required of the Defendant if any.

The Defendant is to remain in custody until transported.

The Court wants the record to reflect the Defendant is on formal probation and will run concurrent with his time in boot camp. The Court further ordered the Defendant to pay a \$25.00 administrative assessment fee; \$3.00 DNA assessment fee, \$250.00 public defender fee, \$100.00 for the evaluation and

\$20.00 in restitution. The Court shall reassess fees to be paid at the status hearing when the Defendant returns from boot camp.

CR 19-7088

The State of Nevada vs. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Jody Clark

OCTOBER 8, 2019

SENTENCING HEARING

PRESENT: Richard Haas, Humboldt County Deputy District Attorney, present on behalf of the State. Defendant (Custody) present with counsel, Maureen McQuillan, Humboldt County Alternate Public Defender. Debbie Okuma, DPS Specialist III, present on behalf of the Adult Parole and Probation Department.

The record reflected that this matter comes before the Court for sentencing.

The Defendant previously plead Guilty to the charge of BATTERY BY PRISONER UPON A PEACE OFFICER, a Category B Felony, in violation of NRS 200.481(2)(f). Copies of the Pre-Sentence Report had been received.

The Court stated there is a victim impact statement and asked if there are any objections to the Court attaching it to the Pre-Sentence Report.

No objections heard.

Argument by McQuillan as to a 458 Diversion.

The Court stated his concerns regarding a 458 Diversion. The Court would need evidence the Defendant is a drug addict or alcoholic. The Court is struggling with finding a 458.

McQuillan motioned the Court for a continuance in order to obtain an evaluation.

Haas had no objections.

The Court granted the continuance and continued this matter to Tuesday, October 22, 2019, at 9:30 a.m. or on an earlier date if the Court is notified by counsel.

CR 19-7088

The State of Nevada VS. Hawk Riverz Urban

Judge: Michael R. Montero

Clerk: Mikayla Mecham

August 13, 2019

ARRAIGNMENT

PRESENT: Richard Haas and Kevin Pasquale, Humboldt County Deputy District Attorneys, present on behalf of the State. Debbi Okuma, DPS Specialist III, and Officer Elizabeth Hill on behalf of the Division of Adult Parole and Probation. Defendant (in custody) present with counsel, Maureen McQuillan, Humboldt County Alternate Public Defender.

The record reflected that this matter comes before the Court for an arraignment hearing.

The Court informed the Defendant of the purpose of the hearing.

The Defendant stated his understanding.

The Court informed the Defendant of the charges filed against him, two counts of BATTERY BY PRISONER UPON A PEACE OFFICER, a category B Felony, in violation of NRS 200.481. The Defendant's true and correct name stated.

The Court interrogated the Defendant. A Preliminary Hearing had been waived. Amended information was filed as well as a plea agreement. The Counsel waived a formal reading. The Defendant was informed of his Constitutional Rights. A Guilty Plea Agreement had been filed on August 13, 2019. The Court stated the essential elements that the State would have to prove should this matter go to trial, as well as the possible penalties.

The Defendant entered his plea of GUILTY.

The Court examined the Defendant and accepted his plea.

The Court referred the matter to Parole and Probation for a Pre-Sentence Report.

McQuillan addressed the Court as to a change to the Defendant's bail; the bail reflected two (2) counts of BATTERY BY PRISONER UPON A PEACE OFFICER, and motioned the Court to show only one count.

Pasquale stated that twenty thousand (20,000) dollars bail would be appropriate.

McQuillan concurred.

The Court reduced the bail amount to \$20,000.

The Court set this matter for Sentencing on Tuesday, October 8, 2019 at 9:30 a.m.

CERTIFICATION OF COPY

STATE OF NEVADA,
COUNTY OF HUMBOLDT,

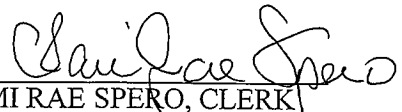
I, TAMIRAE SPERO, the duly elected, qualifying and acting Clerk of Humboldt County, in the State of Nevada,
and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true , full and correct copy
of the original: Notice of Appeal; Case Appeal Statement; District Court Docket Entries; Order Denying Petition
for Writ of Habeas Corpus; District Court Minutes;

The State of Nevada,
Plaintiff,
vs.
Hawk Riverz Urban,
Defendant.

CASE NO. CR 1907088

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, Winnemucca, Nevada, this __20th__
day of November, 2020, A.D.


TAMI RAE SPERO, CLERK