

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ALONSO HIDALGO III

APPELLANT,

V.S.

THE STATE OF NEVADA

RESPONDENT.

SUPREME COURT NO. 82902

DISTRICT COURT NO. 05C212667-2

FILED

JUN 29 2021

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

MOTION TO APPOINT COUNSEL

Comes now Appellant, Luis ALONSO HIDALGO, III in PRO SE, and
MOVES this Honorable Court For an ORDER Appointing him counsel
for the foregoing proceedings.

STATEMENT OF FACTS

ON or around November of 2019, Appellant with the aid of
a Jailhouse writ writer filed a Motion for MODIFICATION OF
SENTANCE.

ON JANUARY 16TH, 2020 the DISTRICT COURT UPON SEVERAL
OBJECTIONS from the STATE appointed COUNSEL ALLEN LICHTENSTEIN ESQ.

ON MARCH 19TH, 2021 A hearing was held and the motion
for MODIFICATION OF SENTANCE was denied.

ON MARCH 23RD, 2021 Appellant received notice from Appointed
counsel that the decision concluded his representation, and he was
going to send the case file SEE NOTICE AS EXHIBIT #1

ON MAY 25TH, 2021 Appellant sent Appointed counsel A Three page
letter with A request for assistance, and to send the case file SEE AS EXHIBIT #2

LEGAL ARGUMENT

1 Appellant requests the appointment of counsel as he believes
2 it would be in the interest of justice for the following reasons:
3 1. Appellant was appointed counsel in District Court. 2. This is a
4 criminal case that is complex, and Appellant is currently serving a
5 life sentence. 3. Appellant is financially unable to obtain counsel
6 at his own expense. 4. Appellant would not knowingly be able
7 to properly present his appeal "opening brief" to this Honorable
8 Court. 5. As of the date of this filing Appellant still has not
9 received his case file from counsel. 6. As the reasons stated
10 above and coupled with meeting the criteria of N.R.S.
11 34.750, Appointment of Counsel for Appellant would not
12 only satisfy justice, but be fundamentally fair as well
13 to prevent a due process violation.
14

15
16 DATED THIS 23RD DAY OF JUNE 2021

17
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21 RESPECTFULLY SUBMITTED

22 

23 LUIS ALONSO HIDALGO III

24 APPELLANT IN PRO SE
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CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing
(check appropriate box)

☐ Opening Brief

☐ Reply Brief

☒ Motion: FOR APPOINTMENT OF COUNSEL

☐ Petition: _____

☐ Other: _____

to the below address(es) on this 23RD day of JUNE, 2021, by
placing same in the hands of prison staff for posting in the U.S. Mail, per
Nev.R.App.P. 25:

CLARK COUNTY DISTRICT ATTORNEY
200 LEWIS AVE.

LAS VEGAS, Nevada 89 155

Attorney For _____

☒ and

OFFICE OF THE CLERK
SUPREME COURT BUILDING
201 S. CARSON STREET

CARSON CITY, Nevada 89 701-4702

LUIS ALONSO HIDALGO TIL #1038135
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

APPELLANT In Pro Se

EXHIBIT

1

EXHIBIT

1

ALLEN LICHTENSTEIN
ATTORNEY AT LAW, LTD.

3315 Russell Road, No.222
Las Vegas, NV 89120
Phone: (702) 433-2666
Fax: (702) 433-9591
e-mail: allaw@lvcoxmail.com

March 23, 2021

SENT VIA US MAIL (Certified)

LUIS HIDALGO, III
(#11038133)
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Re: LUIS HIDALGO, III

(#11038133)

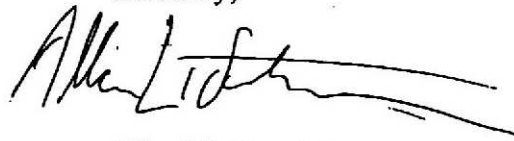
Dear Mr. Hidalgo,

On March 19, 2021, a hearing was held in front of the Hon. Cristina Silva, denying your Motion to Modify Sentence, on the basis of a lack of jurisdiction.

If you wish to apply for review of their decision, you must do so quickly. There should be the necessary forms located within the facility. However, this decision concludes my representation of you.

Your file is being sent separately. If you have any questions regarding this matter, please contact my office at (702) 433-2666. Please be aware that your federal habeas petition is still active.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Lichtenstein", with a long horizontal flourish extending to the right.

Allen Lichtenstein

EXHIBIT [#] 2

EXHIBIT [#] 2

ALLEN LICHENSTEIN, ESQ.

ATTORNEY AT LAW

3315 RUSSELL ROAD, # H222

LAS VEGAS, NEVADA 89120

DATE: 5-25-2001

RE: HUIDALGO V. STATE, CASE No. OSC 212667-2

MOTION FOR MODIFICATION OF SENTENCE

DR. ALLEN,

I RECEIVED YOUR LETTER THAT YOU ARE
FINISHED WITH MY CASE. I RECEIVED THE COURT'S
ORDER DENYING MY MOTION FOR MODIFICATION OF SENTENCE
SO I TOOK IT UPON MYSELF TO FILE A NOTICE OF
APPEAL.

THERE ARE 2 CASES I WOULD LIKE YOU TO READ
THAT ARE ON POINT WITH THE FACTS IN MY CASE.
UNITED STATES V. TORRES-RODRIGUEZ, 930 F.2d 1375,
1387-1388 (9th Cir. 1991) A CO-CONSPIRATOR IS LIABLE FOR
SUBSTANTIVE OFFENSES COMMITTED IN FURTHERANCE OF
THE CONSPIRACY, EVEN THOUGH HE DOES NOT
ACTUALLY PARTICIPATE IN THE ACT. I WAS CHARGED
AS A CO-CONSPIRATOR, BUT, I WAS NOT FOUND
GUILTY OF "CONSPIRACY TO COMMIT MURDER".

SO HOW COULD I BE FOUND GUILTY OF THE MURDER (SUBSTANTIVE OFFENSE)? I WAS FOUND GUILTY OF THE LESSER OFFENSE OF THE CONSPIRACY. CATCH MY DRAFT?

SECOND, (WILLIAMS V. STATE, 118 NEV. 536, 50 P.3d 1116 (2000), CERT. DENIED WILLIAMS V. NEVADA, 2002 U.S. LEXIS 8507 (11-11-2002)) (THE DOUBLE JEOPARDY CLAUSE PROTECTS AGAINST THREE DISTINCT ABUSES: A SECOND PROSECUTION FOR THE SAME OFFENSE AFTER ACQUITTAL; A SECOND PROSECUTION FOR THE SAME OFFENSE AFTER CONVICTION; AND MULTIPLE PUNISHMENTS FOR THE SAME OFFENSE. UNDER THE BROCKBURNER TEST, "IF THE ELEMENTS OF ONE OFFENSE ARE ENTIRELY INCLUDED WITHIN THE ELEMENTS OF A SECOND OFFENSE, THE FIRST OFFENSE IS A 'LETER INCLUDED OFFENSE' AND THE DOUBLE JEOPARDY CLAUSE PROHIBITS A CONVICTION FOR BOTH OFFENSES."

SO I HOPE YOU SEE WHERE I AM AT WITH THIS. AS FAR AS I KNOW, PASANISI IS STILL GOOD LAW FOR MODIFICATION.

YOU DID AN EXCELLENT JOB SUPPLEMENTING MY MOTION. TIM JUST RAN ACROSS THESE TWO CASES A FEW MONTHS AGO WHILE DOING RESEARCH. BUT I HOPE YOU AGREE THEY HIT THE NAIL ON THE HEAD. I WAS CHARGED AS A CO-CONSPIRATOR

AND WAS FOUND GUILTY OF THE LESSER INCLUDED
OFFENSE FOR THE "CONSPIRACY" SO, HOW COULD I
BE FOUND GUILTY OF THE SUBSTANTIVE OFFENSE
ON COUNT 2 OF "MURDER BY CONSPIRACY"? WITHOUT
VIOLATING DOUBLE JEOPARDY?

MR. LICHTENSTEIN, PLEASE RETHINK DROPPING MY
CASE IN LIGHT OF THE ABOVE CITED CASES. I
NEED AN ATTORNEY IN MY CORNER. MY DAD AND I
SPENT EVERY \$ WE HAD ON ATTORNEYS. I NEED
HELP!

HOWEVER, IF YOU DO NOT SEE A WAY FORWARD,
THEN PLEASE SEND MY CASE FILE TO ME.

SINCERELY,


Luis A. HIDALGO III #1058133
LOVELOCK CORR. CENTER
1200 PRISON ROAD
LOVELOCK, NEVADA 89419