

FILED

AUG 23 2021

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ALONSO HIDALGO, III,

CASE NO. 82902

APPELLANT,

D.C. NO. 05C212667-2

VS.

THE STATE OF NEVADA

RESPONDENT

MOTION FOR ENLARGEMENT OF TIME [FIRST REQUEST]

COMES NOW APPELLANT, LUIS ALONSO HIDALGO III, IN PRO-
PER and MOVES THIS Honorable COURT FOR AN ENLARGEMENT OF TIME
[FIRST REQUEST] OF SIXTY (60) DAYS TO FILE HIS OPENING BRIEF
which is currently due on or about OCTOBER 1st, 2021, UP
to and including DECEMBER 1st, 2021, IN WHICH TO FILE.
THIS IS APPELLANT'S FIRST REQUEST FOR AN ENLARGEMENT OF
TIME. Said REQUEST is brought in good faith and NOT for
PURPOSES OF delay.

MEMORANDUM OF POINTS AND AUTHORITIES

REASONS FOR ENLARGEMENT OF TIME.

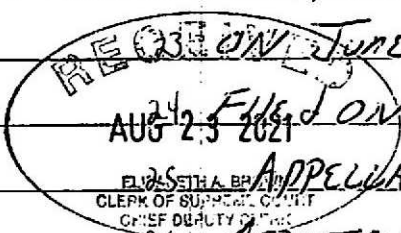
THE ORDER DIRECTING TRANSMISSION OF THE RECORD AND
REGARDING BRIEFING WAS FILED ON JUNE 1st, 2021.

APPELLANT FILED A MOTION FOR APPOINTMENT OF COUNSEL

ON JUNE 29th, 2021. THE ORDER DENYING THE MOTION WAS
FILED ON JULY 6th, 2021.

APPELLANT THEN FILED A MOTION FOR RECONSIDERATION OF

APPOINTMENT OF COUNSEL ON JULY 22nd, 2021. THE ORDER
DENYING THE MOTION WAS FILED ON JULY 30th, 2021.



1 APPELLANT'S COUNSEL had NOTIFIED APPELLANT THAT AFTER
2 THE COURT HEARING IN THE 8TH JUDICIAL DISTRICT COURT, AND
3 THE DENIAL OF APPELLANT'S MOTION FOR MODIFICATION OF
4 SENTENCE, THAT APPOINTED COUNSEL MR. LICHTENSTEIN WOULD NOT
5 BE FILING A NOTICE OF APPEAL NOR PROVIDE ANY REPRESENTATION
6 ON APPEAL OF SAID MOTION.

7 APPELLANT DID WRITE MR. LICHTENSTEIN AND REQUEST
8 ASSISTANCE, AND THAT HE SEND APPELLANT'S COMPLETE CASE FILE
9 FOR THE MODIFICATION OF SENTENCE. APPELLANT TO THIS DATE
10 HAS NOT RECEIVED HIS CASE FILE. PLEASE SEE EXHIBITS # 1
11 AND # 2 ATTACHED.

12 APPELLANT IS INCARCERATED AT Lovelock CORR. CENTER
13 (L.C.C.) and is CURRENTLY ON Rolling Lock Downs DUE TO STAFFING
14 SHORTAGES and "COVID 19" RESTRICTIONS, WHICH MAKE ACCESSING
15 THE PRISON LAW LIBRARY MORE DIFFICULT, and TAKES MORE TIME.

16 CONCLUSION

17 FOR ALL OF THE ABOVE STATED REASONS WITH EXHIBITS ATTACHED
18 APPELLANT RESPECTFULLY REQUEST AN ENLARGEMENT OF TIME
19 [FIRST REQUEST] TO FILE HIS OPENING BRIEF, UPTO AND
20 INCLUDING DECEMBER 1ST 2021.

21
22 DATED THIS 18TH DAY OF AUGUST, 2021

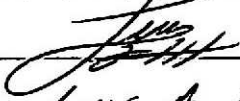
23
24
25 RESPECTFULLY SUBMITTED,
26 
27 LUIS A. HIDALGO, III
28

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)

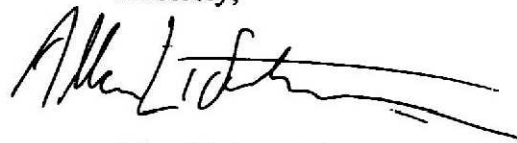
Dear Mr. Hidalgo,

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, 1st H222
LAS VEGAS, NEVADA 89120

DATE: 5-25-2021

RE: HIDALGO V. STATE, CASE No. OSC212667-2
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 'LESSER 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, ARIZONA IS STILL GOOD LAW FOR MODIFICATION.

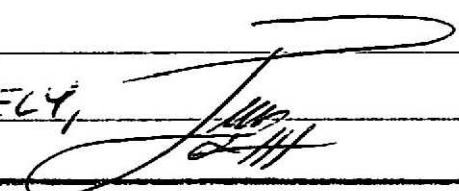
YOU DID AN EXCELLENT JOB SUPPLEMENTING MY MOTION. TIM JUST RAN ACROSS THESE TWO CASES A FEW MONTHS AGO WHILE DOING RESEARCH. BUT I HOPE YOU AGREE THEY HIT THE NAIL ON THE HEAD. I WAS CHARGED AS A CO-CONSPIRATOR

WAS 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 & 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 II #1058133
LOVELOCK CORR. CENTER
1200 PRISON ROAD
LOVELOCK, NEVADA 89419

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 ENLARGEMENT OF TIME [FIRST REQUEST]

☐ Petition: _____

☐ Other: _____

to the below address(es) on this 18TH day of AUGUST, 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 AVENUE

LAS VEGAS, Nevada 89155-2212

Attorney For RESPONDENT

☒ and

_____, Nevada 89_____

LUIS A. HIDALGO, III #1038133
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

LUIS A. HIDALGO, III In Pro Se