

"In the Court of Appeals of the State of Nevada"

AFFIDAVIT OF: "A legal question is presented de novo"

STATE OF NEVADA)

vs.)

ss:)

CASE NO: 82962

JUN 28 2021

JAMES H. HAYES

TO WHOM IT MAY CONCERN:

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

I, JAMES H. HAYES the undersigned, do hereby swear that

all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and as to those, I believe them to be True and Correct. Signed under the penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state the following:

1) That, the dismissal of the charge Attempt Grand Larceny at conclusion of the preliminary hearing without another pending vehicle for the prosecution of the charge Attempt Grand Larceny, runs afoul of the provisions of NRS 178.562(4), and BARS further prosecution of the affiant on that charge.

2) That, the provisions of NRS 174.085(3) BARRED the charge of Attempt Grand Larceny against the Affiant in District Court when the charge was dismissed at conclusion of preliminary hearing for lack of probable cause...

3) That, the district court failing to confer subject-matter jurisdiction for the charge of Attempt Grand Larceny or to set forth facts sufficient to constitute a public offense, affiant's "Alford" plea confesses nothing, and plea amounts to nothing more than an acknowledgment of facts that does not constitute an offense at law.

4) That, the state's filed Information and Amended Information was deficient and the descriptions of the offenses of Burglary and Attempt Grand Larceny was not sufficiently full and complete to accord the affiant his constitutional right to "Due Process" of Law, NO intent for Burglary charge and NO probable cause for AAL charge.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 22ND Day of JUNE

2021
JUN 25 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

BY: [Signature]
JAMES H. HAYES #1176077
Post Office Box-208 (SDCC)
Indian Springs, Nevada. 89070-1/
Affiant, In Propria Personam:

21-18589

FILED

JUN 03 2021

CLERK OF COURT

IN the 8th Judicial District Court of the
State of Nevada IN and for the County of Clark

JAMES H. HAYES
(Defendant)

"HEARING REQUESTED"

v.

Case No: C-16-315718-1

State of Nevada
(Plaintiff)

DEPT No: 3

"Affidavit of the District Court acted in
EXCESS of its Jurisdiction"

To Whom it may CONCERN:

I, James H Hayes the undersigned, do hereby
swear that all statements, facts, and events within
my foregoing Affidavit are true and correct of my
own knowledge, information and belief and as to
those, I believe them to be true and correct. Signed
under the penalty of perjury, pursuant to NRS 29.010;
NRS 53.045; NRS 208.165 and state the following:

(1) that James H Hayes is the affiant in this affidavit
and is currently incarcerated at Southern Nevada Correctional
Center a victim of a fundamental miscarriage of justice
trying to overcome a fundamentally unjust incarceration
(2) that the court that determined and delivered the
criminal judgment 8th Judicial District Court lacked
subject-matter jurisdiction for the offense of attempt
grand larceny against Mr Hayes in excess of the
jurisdiction of the District Court (NRS 34.320)

ADDITIONAL FACTS OF THE CASE:

(3) that because the 8th Judicial District court lacked jurisdiction over the offense of attempt grand larceny against MR. HAYES this honorable court must issue order to vacate the conviction and sentence and dismiss the case because the district court improperly adjudicated MR. HAYES due to lack of subject-matter jurisdiction.

(4) that its "BLACK LETTER LAW" in the State of Nevada that subject-matter jurisdiction can only be established by the district court at the conclusion of preliminary hearing by one of the following: A. Magistrate finds probable cause to bound over the charge; B. GRAND JURY indictment; C. Motion of leave of the court to file information by affidavit. Here, at the conclusion of the preliminary hearing after the presentation of all the evidence no probable cause was found for the charge of attempt grand larceny against MR. HAYES.

(5) that District Court 8th Judicial district categorically lacked subject-matter jurisdiction for the conviction and sentence of attempt grand larceny constitutionally (DUE PROCESS VIOLATION) against MR. HAYES.

(6) that the indefinite information obscures the reality that the prosecution was unable to frame a proper amended information for attempt grand larceny consistently with facts now known as the means was false confirmed by magistrate ruling of no probable cause.

(7) that based on SESSIONS v. Dimay 138 S.Ct. 1204, MR. HAYES cannot knowingly and voluntarily plead "Alford"

ADDITIONAL FACTS OF THE CASE:

1 to something that is NOT a public offense (crime). INSTEAD
2 IN FACT THE ALLEGED CONDUCT IN THE STATE'S FILED AMENDED
3 INFORMATION IS VERDICTUM TO THE STATE'S FILED CRIMINAL
4 COMPLAINT THAT WAS DISMISSED FOR LACK OF PROBABLE CAUSE
5 AT THE CONCLUSION OF THE PRELIMINARY HEARING ON THE
6 PROSECUTION'S INITIATION FOR FAILURE TO SATISFY THE ELEMENTS
7 OF THE CRIME PURSUANT TO STATUTE THAT SHOWS THAT NO
8 CRIME OF ATTEMPT GROSS BATTERY WAS COMMITTED BY
9 MR. HAYES

10 (8) THAT MR. HAYES HAS DEMONSTRATED THAT HIS CONVICTION
11 AND SENTENCE IS ILLEGAL IN VIOLATION OF THE U.S.
12 CONSTITUTION, NEVADA CONSTITUTION, AND STATE LAW
13 NRS 174.085(1); NRS 178.512(1); NRS 174.145; NRS 34.520.
14 AS AN INFORMATION CANNOT BE AMENDED SO AS TO CHARGE
15 AN OFFENSE NOT SHOWN BY THE EVIDENCE TAKEN AT THE
16 PRELIMINARY HEARING, NOR PERMIT THE DISTRICT COURT TO
17 ALLOW THE AMENDMENT OF AN INFORMATION TO RESTATE
18 A CHARGE THAT HAS BEEN DISMISSED BY THE MAGISTRATE
19 AT THE PRELIMINARY HEARING FOR LACK OF PROBABLE CAUSE.
20 (THOMPSON V. STATE 221 P.3D 708). SO THE RECORD CLEARLY
21 DEMONSTRATES PREJUDICE RESULTING FROM CONSIDERATIONS OF
22 INFORMATION AND ACCUSATIONS FOUNDED ON LAWS AND
23 FACTS SUPPORTED BY IMPROBABLE AND HIGHLY SUSPECT EVIDENCE.
24 (ALLRED V. STATE 92 P.2D 1246)

25 (9) THAT MR. HAYES REQUESTS THAT THIS COURT MAKE KNOWN TO
26 HIM ALL THE ESSENTIAL ELEMENTS OF THE CONVICTED OFFENSE AS
27 THEY RELATE TO FACT AS WELL AS LAW.

CERTIFICATE OF SERVICE BY MAILING

I, James H. Hayes, hereby certify, pursuant to NRCp 5(b), that on this 25
day of May, 2021, I mailed a true and correct copy of the foregoing, "Affidavit
District Court acted in excess of its Jurisdiction"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Clark County District Court
Office of the Clerk
201 LAUNIS AVE. 3RD FL
Las Vegas, NV
89155-1160

Clark County District Atty
201 LAUNIS AVE
Las Vegas, NV
89155-2212

Supreme Court of Nevada
201 S. Carson St. Ste 201
Carson City, NV
89701

CC:FILE

DATED: this 25 day of May, 2021.

James H. Hayes
James H. Hayes # 1175077
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS: