

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY DANIELS MORAGA,

Appellant,

v.s.

THE STATE OF NEVADA,

Respondent.

CASE NO. 93179

PETITION FOR REVIEW

FILED

FEB 04 2022

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

ON Dec. 27, 2021, the court of Appeals entered an Order of Affirmance on Appellant's writ of Prohibition Pursuant to Double Jeopardy Clause.

IN this court's ruling it stated that "The writ will not issue if the petitioner has a plain, and Adequate remedy in the ordinary course of LAW. NRS 34.370. This was in Error Pursuant to the AEDRA's one year Provides; "a 1-year period of limitation shall apply to an Application For a writ of habeas Corpus by a person in custody pursuant to the judgment of a State Court."

Therefore Appellant MORAGA did NOT HAVE a plain, and Adequate remedy in the ordinary course of LAW. Also this Court of Appeals state that "Moraga's petition Challenged the validity of his judgment of Conviction."

This was Also in "Error". MORAGA does not care About his conviction and what MORAGA is challenging is the sentence's that were imposed which Amounted To a violation of Moraga's U.S. Const. Rights Amend. V. AND Nev. Const. Art. 1, § 8, 14th Amendment's Due process Clause, Double Jeopardy Clause. See Benton v. Md., 395 U.S. 784, (1969).

RECEIVED

FEB 04 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

22-03910

STANDER OF REVIEW FOR DOUBLE JEOPARDY CLAIMS

A Writ of Prohibition is an Appropriate Vehicle to Address double Jeopardy Claims; see Glover v. 8th Judicial District Court, 125 Nev. 691, 701, 220 P.3d 684, 692 (2009), HYLTON v. The 8th Judicial District Court, 103 Nev. 418; 743 P.2d 622, (1987), JACKSON v. State, 128 Nev. 604, 291 P.3d 1278, in this case is the second protection, MORAGA Argues that he was prosecuted (4) Four Times For the same OFFENSE MORAGA'S Adjudication as a Large Habitual Criminal was in Error, ~~three~~ Three of the sentences that were imposed upon MORAGA were for the "Primary Offense's" which MORAGA served each sentence consecutively, in 1998 MORAGA was paroled to serve his habitual Criminal Enhancement consecutively to his primary OFFENSE'S. This was the error the purpose of the habitual Criminal Charge/statute is not to charge a separate substantive crime, but to allege a fact which may enhance the punishment. State v. Bardness, 54 Nev. 84, 7 P.2d 817 (1932). Only one sentence may be imposed. See also: "Dept of Revenue v. Kuch Ranch, 511 U.S. 767, 267 N.1, 128 L. Ed. 2d 767, 114 S. Ct. 1937 (1994).

THEREFORE, For the reasons stated in this "Petition For REVIEW" Appellant, Roy Daniels MORAGA moves this Court to VACATE and Dismiss the habitual Criminal enhancement.

AFFIDAVIT OF APPELLANT

I, ROY DANIELS MORAGA, hereby swear under penalty of perjury that the foregoing is True and Correct.

1. That I Am the Appellant in this Action.
2. That I have served each primary offense's consecutively.
3. That Since 1998 I have serving the habitual Criminal Adjudication Also consecutively.

This Affidavit is made in support of MORAGA'S Petition For Review, and NRS 208.165, 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

~~ROY DANIELS MORAGA~~ Submitted By
Roy Daniels Moraga
ROY D. MORAGA #31584

Dated: 2-1-22

N. N. CC. P.O. Box 7000
CARSON CITY, NV 89702

CERTIFICATE OF SERVICE

I, Roy Daniels Moraga certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid, and addressed to:

Office of the Attorney General
100 N. CARSON ST
CARSON CITY, NEVADA
89701-4717

AND

Roy D. Moraga 31587
NWCC- P.O. Box 2000
CARSON CITY, NV 89702
Appellant in pro per

Dated this 1st day of Feb, 2022.

By: Roy D. Moraga
Movant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any

Persons.

2-1-22
(Date)

Roy D. Moraga
(Signature)