

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

BRYAN WARREN DRYDEN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed  
Jan 31 2022 01:13 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
SUPREME COURT NO: 83234  
DISTRICT COURT NO: C-18-334955-1

**MOTION FOR EXTENSION OF TIME TO FILE AND SERVE OPENING  
BRIEF AND APPENDIX (SECOND REQUEST)**

COMES NOW, BRYAN WARREN DRYDEN, by and through his attorney of record, TONY ABBATANGELO, ESQ., and moves this court an order extending time to file and serve his Opening Brief and Appendix brief under NRAP 31. Appellant asks that this Court grant a 90-day extension from the date of this filing in order that the transcripts will be ready, and Appellant can adequately prepare his Opening Brief and Appendix. As grounds, the Appellant submits the following:

**FACTS IN SUPPORT OF MOTION FOR EXTENSION**

On September 1, 2021 a Request for Transcript of Proceedings with Court Reporter, Yvette G. Sison, was filed with this Court. This Honorable Court then ordered that Appellant would have 120 days from that date to file and serve his Appendix and Opening Brief, *id.* On December 8, 2021 undersigned requested an extension to file Appellant's Opening Brief and Appendix via telephone. The same was granted and the renewed due date was December 22,

2021. On December 29, 2022 a Notice of Withdrawal of Appeal was filed. On or about January 19, 2022, the Court denied the same and thus provided the Appellant 14 days from the date of this order to file and serve Opening Brief and Appendix. This would make the Appendix and Opening Brief due on or before **February 2, 2022**.

The Appellant himself is requesting that undersigned counsel pursue an appeal based upon a claim of ineffective assistance of counsel as against our undersigned. Appellant is alleging that your undersigned coerced him to accept the plea deal, and that he was otherwise misled into accepting that deal because of alleged false statement by the undersigned. The undersigned has filed a Motion for Reconsideration to address his continuing representation in this case (*See Exhibit 1*).

Appellant asks that he be granted an extension of 90 days from the deadline of, Wednesday, February 2, 2022, which would make this Opening Brief and Appendix due Tuesday, **May 3, 2022** to allow the Court to make a ruling on the Motion for Reconsideration.

#### **POINTS AND AUTHORITIES**

Nevada Rules of Appellate Procedure, Rule 31 states as follows:

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

(i) The date when the brief is due;

(ii) The number of extensions of time previously granted, and if extensions were granted, the original date when the brief was due;

(iii) Whether any previous requests for extensions of time have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary; and

(v) The length of the extension requests and the date on which the brief would become due.

1 This motion for extension of time is reasonable, fair, and there is clearly good cause to  
2 grant a 90-day extension from today's date, which would be Tuesday, May 3, 2022. This is the  
3 second request for an extension, no previous extension requests have been denied.

4 The appellant, as well as counsel, are in the utmost of good faith, and there cannot be any  
5 prejudice to any party since Appellant now knows what transcripts are actually available for the  
6 prosecution of this important Appeal.  
7


8 **PRAYER**

9 WHEREFORE, the Appellant prays that this Court grant this his second request for an  
10 extension of time to file and serve his Appendix and Opening Brief

11 DATED this 31<sup>st</sup> day of January, 2022.

12 Respectfully Submitted By:

13 By:

14   
15 TONY L. ABBATANGELO, ESQ.  
16 NEVADA BAR NO. 3897  
17 4560 South Decatur Boulevard, Suite 300  
18 Las Vegas, Nevada 89103

19 *Attorney for Defendant*  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this Motion for Extension of Time to File and Serve Opening Brief and Appendix (Second Request) was sent by first class mail, postage prepaid, to the following parties on the 31<sup>st</sup> day of January, 2022.

AARON FORD, ESQ.  
Nevada Attorney General  
100 N. Carson Street  
Carson City, Nevada 89701

STEVE WOLFSON, ESQ.  
District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89155

  
An Employee of Paul Padda Law, PLLC

# EXHIBIT 1

# EXHIBIT 1

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

BRYAN WARREN DRYDEN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed  
Jan 31 2022 11:55 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

SUPREME COURT NO: 20-0330

DISTRICT COURT NO: C-18-334955-1

**MOTION FOR RECONSIDERATION**

TONY L. ABBATANGELO, ESQ.  
Nevada Bar No. 3897  
4560 S. Decatur Boulevard, Ste. 300  
Las Vegas, Nevada 89103  
Phone: (702) 707-7000  
Fax: (702) 366-1940

Mailing Address:  
4030 S. Jones Blvd., Unit 30370  
Las Vegas, Nevada 89173

*Attorney for Appellant*  
Bryan Dryden

STEVE WOLFSON, ESQ.  
District Attorney  
Nevada Bar No. 1565  
200 Lewis Avenue, 3rd Floor  
Las Vegas, Nevada 89155

AARON FORD, ESQ.  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

*Attorneys for Appellee*  
The State of Nevada

1 NOW COMES, the appellant, Bryan Dryden, and moves this Court to re-  
2 consider its order of January 19, 2022, requiring appellant's counsel, herein, to  
3 pursue an appeal on appellant's behalf. This motion is based on the appellant's  
4 insistence that the undersigned pursue an appeal based upon a claim of ineffective  
5 assistance of counsel as against your undersigned. *See correspondence of Bryan*  
6 *Dryden in two separate letters addressed to appellant's counsel, dated December*  
7 *14, 2021 and January 2, 2022, respectively, attached hereto as Exhibit No. 1 and*  
8 *2.* This proposal/requirement/insistence by the appellant creates an obvious conflict  
9 of interest between appellant and the undersigned. Based on the following analysis  
10 and argument, appellant's counsel requests that this Court reconsider its Order of  
11 August 6, 2021, denying counsel's motion to withdraw from this case.  
12  
13  
14  
15

16 Your undersigned commenced appellant's court-appointed representation on  
17 November 5, 2018, based on an indictment returned on September 19, 2018,  
18 charging the appellant with felony Sexual Assault with Use of a Deadly Weapon.  
19 From the commencement of your undersigned's appointment, through appellant's  
20 change of plea hearing on November 5, 2019 (to attempted sexual assault) until his  
21 sentencing on July 8, 2021, your undersigned zealously represented appellant.  
22  
23  
24

25 At that July 8<sup>th</sup> sentencing hearing, the Hon. Mary Kay Holthus sentenced  
26 the appellant to, amongst other things, a period of 60 to 240 months incarceration;  
27 such term of incarceration to run concurrent with a previously imposed life sentence  
28

1 (with the possibility of parole after ten years) in a 2009 second-degree murder case  
2 docketed as 09-C258241. Your undersigned filed a timely notice of appeal on the  
3 appellant's behalf on July 14, 2021, in the instant case.  
4

5 In the December 14, 2021, letter the appellant acknowledges that your  
6 undersigned had filed a timely notice of appeal on the issue of whether Judge  
7 Holthus had improperly denied the appellant's motion to receive credit for time  
8 served in the instant case. But in that letter the appellant also flatly and emphatically  
9 dismisses the sentencing issue as irrelevant. Instead, appellant emphasizes that he  
10 wants the appeal to be based on his claim that the undersigned was ineffective in  
11 his representation of the appellant during trial court proceedings; collaterally  
12 alleging that your undersigned coerced him to accept the plea deal, and that he was  
13 otherwise misled into accepting that deal because of alleged false statements by the  
14 undersigned.  
15  
16  
17  
18

19 The undersigned parenthetically notes that during the appellant's sentencing  
20 hearing, he was given the opportunity to address the court and never mentioned the  
21 fact that he was disappointed in the representation of the undersigned. Similarly,  
22 on recollection and belief, your undersigned represents that the appellant never  
23 mentioned his dissatisfaction with your undersigned's representation at the change  
24  
25  
26  
27  
28



1 of plea hearing.<sup>1</sup> Appellant did mention his displeasure with your undersigned in  
2 an ill-fated motion to withdraw his plea that was filed with the district court on  
3 March 2, 2020 and denied by District Court Judge Holthus on January 21, 2021.<sup>2</sup>  
4

5 With his most recent correspondence, referenced in Exhibit Nos. 1 and 2  
6 above, the appellant has cast his criticism of undersigned counsel in sharp relief.  
7 He asserts that your undersigned lied to him, misled him, coerced him and was  
8 otherwise ineffective in representing him. Moreover, he flatly rejects any other  
9 basis for appeal. In other words, the appellant has formally renounced the  
10 partnership that typically exists between lawyer and client in the common objective  
11 to achieve the most favorable outcome for the client; and has, instead, identified the  
12 undersigned as an adversary to his (appellant's) interests.  
13  
14  
15

16 Moreover, aside from the ethical considerations of requiring a lawyer to press  
17 a legal claim against him/herself, a direct appeal to the Supreme Court is not even  
18 the proper form or forum, respectively, for a litigant to advance a claim for  
19 ineffective assistance of counsel. A claim for ineffective assistance of counsel  
20 cannot be raised on direct appeal but must be filed with the sentencing court in a  
21  
22  
23  
24

---

25 <sup>1</sup> This representation is based on your undersigned's memory because a transcript of that hearing is unavailable for  
26 review.

27 <sup>2</sup> It is noteworthy that while the appellant offers a brief criticism of your undersigned in his (appellant's) written  
28 motion to withdraw his plea, filed by Attorney Marisa Border, he (appellant) doesn't even mention the undersigned  
by name at the hearing on the motion, instead transferring his criticisms to his then attorney, Ms. Border, as being  
the ineffective counsel.

1 post-conviction petition. *Pelligrini v. State*, 117 Nev. 860, (2001)  
2 ([I]neffective assistance of counsel claims are properly raised for the first time in a  
3 timely filed post-conviction petition); *see also Colwell v. State*, 118 Nev. 807, 812  
4 (2002). Similarly, even if the appellant’s underlying aim is that he be permitted to  
5 withdraw his plea, which motion had been denied him by the District Judge, that,  
6 too, is a matter to be initiated by filing a post-conviction petition—not an appeal.  
7  
8  
9 *Harris v. State*, 130 Nev. 435, 437 (2014).

10  
11 Because, moving forward, the appellant has demonstrated his adamant  
12 intention to impugn the professional integrity, ability and actions of the  
13 undersigned, an irreconcilable gap in interests exists between us. This forms the  
14 apotheosis of a conflict of interest and counsel’s continued representation of the  
15 appellant under these circumstances disserves both. Courts are compelled to  
16 intervene when a legal counsel’s representation creates a conflict of interests. *Wood*  
17 *v. Georgia*, 450 U.S. 261, 267 (1981); *Noguera v. Davis*, 5 F.4<sup>th</sup> 1020, 1035 (9<sup>th</sup> Cir.  
18 2021); *see also Contreras-Armas v. Baker*, 2021 WL 6064271 (D. Nev. Dec. 21,  
19 2021).

20  
21  
22  
23 Your undersigned had previously filed a motion with this Court, dated July  
24 14, 2021, to withdraw as appellant’s counsel on the ground that the appellant “does  
25 not want your [undersigned] to represent him.” This Court denied that motion on  
26 August 06, 2021, stating as its ground that an “appellant’s general loss of  
27  
28

1 confidence or trust in counsel, alone,” is an insufficient basis to justify an appellate  
2 counsel’s withdrawal from representation. But now the appellant has made a  
3 specific legal claim that has professional and ethical implications on the  
4 undersigned; more so than would past nebulous suggestions that the counsel and  
5 his client are simply out of sync.  
6


7  
8 Thus, although this Court has previously denied the undersigned’s motion to  
9 withdraw, the circumstances have since changed making such legal representation  
10 ethically dubious at best. We note that the appellant is in accord with the request  
11 made in this motion in that: 1) he emphasizes his disaffection with the undersigned;  
12 and 2) he acknowledges the impractical effect of continued representation by the  
13 undersigned because, amongst other reasons, “you can’t defend me against  
14 yourself.” *See Exhibit No.1*. While the appellant’s prose may be inelegant, the  
15 practical and legal concern that he expresses is legitimate. The appellant’s decision  
16 to make undersigned counsel’s competence and professionalism the focus of his  
17 appeal (or his petition for post-conviction relief, as the case may be) constitutes, by  
18 any measure, a conflict of interest and, similarly, constitutes good cause for present  
19 counsel to be replaced by another advocate, both in the interests of the appellant as  
20 well as the interests of the undersigned. It is only through this remedy that the  
21 integrity of the legal process can be preserved.  
22  
23  
24  
25  
26  
27  
28

1 For all the reasons, referenced above, appellant's counsel, on behalf of the  
2 appellant and himself, petitions this Court to reconsider its August 6, 2021, and  
3 grant the appellant's motion allowing appellant's counsel to withdraw from the  
4 above-captioned case.  
5

6 DATED this 31<sup>st</sup> day of January 2022.  
7

8 Respectfully Submitted By:

9 By:

  
10 TONY L. ABBATANGELO, ESQ.  
11 NEVADA BAR NO. 3897  
12 4560 South Decatur Boulevard, Suite 300  
13 Las Vegas, Nevada 89103  
14

15 *Attorney for Defendant*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this Motion for Reconsideration was sent by first class mail, postage prepaid, to the following parties on the 31<sup>st</sup> day of January 2022.

AARON FORD, ESQ.  
Nevada Attorney General  
100 N. Carson Street  
Carson City, Nevada 89701

STEVE WOLFSON, ESQ.  
District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89155



An Employee of Paul Padda Law, PLLC

# EXHIBIT 1

# EXHIBIT 1

Bryan Dryden 1070536  
P.O. Box 650  
Indian Springs, NV. 89070

Resent  
Jan. 2<sup>nd</sup>  
after being  
R.T.S. from the  
Decatur address  
"oops"

THE VEGAS LAWYERS  
TONY L. Abbatangelo, Esq.  
4560 S. Decatur Blvd. #300  
Las Vegas, NV. 89103

Re: State of NV v. Bryan Dryden  
District Court Case #: C-18-334955-1  
Dept. XXI  
Supreme Court Case #: 83233

Carbon Copies on File

Dear Tony,

12-14-21

Seasons greetings ☺

I got your letter yesterday addressing  
our appeal for credit for time served.

My direct appeal is centered around  
& titled: "Defendants Direct Ap-  
peal to Withdraw Plea" before



2/ Sentencing on the grounds of <sup>1)</sup> ineffective assistance of counsel <sup>2)</sup> both court appointed counsel <sup>3)</sup> on grounds of coercion <sup>4)</sup> misleading / False pretenses & many other grounds I will go over in a future (near) letter addressing these matters.

Please file this direct appeal as soon as possible. The clock is ticking on our window to get this done.

Please research this window we have to file our direct appeal to withdraw my plea.



3/  
You need to point out that the Court (Dist.) had dismissed you already & appointed a new lawyer & you were ordered to send the new lawyer as Defendant my entire case file.

The lower Court erred in its reappointing you as Counsel!  
I have the Filed & stamped motion to dismiss you as Counsel! For Judge Holthus to reappoint you is ludicrous!

You cant defend me against Yourself.

Holthus is OUT OF LINE!!

4/ So start Filing these motions on these issues, Mainly: "Defendants Direct Appeal to withdraw Plea"! before sentencing on grounds of ineffective assistance of Counsel. Mainly the...

~~Fill in attorney~~ Fill in attorney for failing to send me the petition & briefs & failing to respond to letters/calls.

Please send this letter back acknowledging you are in receipt of this letter & what our deadlines are. Thank you  
B. J. Replew

# EXHIBIT 2

# EXHIBIT 2



Tony Abbataangelo, Esq.  
THE VEGAS LAWYERS  
4030 S. Jones Blvd. Unit 30370  
Las Vegas, NV. 89173

Re: Bryan Warren Dyson v. State of NV.  
Supreme Court of NV. Case # 83233

Dear Tony, Jan. 2, 2022

Happy New Year! 😊

Hey, I've been writing you at the Decatur address & all this mails been R.T.S.

I found the motion granted to withdraw Counsel, Filed Jan. 6, 2020 where a hearing on Jan. 30, 2020 granted appointment of Counsel to Marisa Border, pursuant to NRS 7.055 You were terminated & ordered to transfer entire Case File. Signed by me December 30, 2019

Judge Holthus erred by reappointing you as Counsel for me when my main grounds

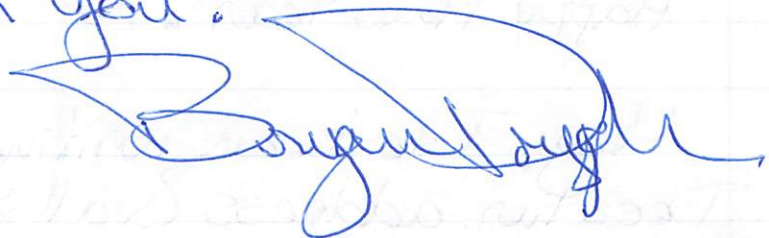
are Coercion & ineffective assistance  
of Counsel.

This is ridiculous!

Anyways, Hope this letter finally  
reaches you.

I also wrote the Supreme Court  
Clerk to make note of my decision  
to go forward with my direct  
appeal to withdraw plea deal.

Thank You!

A stylized handwritten signature in blue ink, appearing to read "Bryan Leigh". The signature is fluid and cursive, with a large loop at the end.

Bryan Dryden # 1070536  
P.O. Box 650 (HOSP)  
Indian Springs, NV,  
89070

HIGH DESERT STATE PRISON

JAN 02 2022

UNIT 10

RECEIVED  
JAN 05 2022

LAS VEGAS NV 890

JAN 2022 PM 5 L



BY: .....

Tony L. Abbattangelo, Esq.  
THE Vegas Lawyers ...  
4030 S. Jones Blvd. Unit # 30370  
Las Vegas, NV. 89173

89173-891735



