

FILED

JUL 15 2021

Elizabeth A. Brown
CLERK OF COURT

Electronically Filed
Aug 04 2021 03:44 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

R. ALLEN
P.O. Box 1989
ELY, NEVADA, 89301
NOA

IN THE COURT OF APPEALS
FOR THE STATE OF NEVADA

I.D. 1185020
NAME, RONALD ALLEN JR #
Plaintiff(s),
-vs-
NAME, WILLIAM GITHERS, WARDEN
ESP
Defendant(s).

CASE NO.

A-20-815539-W

COMES NOW, RONALD ALLEN JR, in PRO PER and herein above resp lly

Moves this Honorable Court for a NOTICE OF APPEAL.

The above is made and based on the following Memorandum of Points and Authorities.

RECEIVED
JUL 15 2021
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

RECEIVED
APPEALS

AUG - 4 2021

CLERK OF THE COURT

A-20-815539-W
NOAS
Notice of Appeal
4962848



1 NOTICE OF APPEAL ON DECISION
2 FROM DISTRICT COURT OF STATE
3 OF NEVADA WRIT OF HABEAS CORPUS
4 PETITION.

5
6 THIS MOTION IS MADE AND BASED
7 UPON THE ACCOMPANYING
8 MEMORANDUM OF POINTS AND AUTHORITIES
9
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23
24 Dated this 12th day of JULY, 2021

25
26 By: RONALD ALLEN JR
27 PRO-SE
28

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCF Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein and that on this 12th day of JULY, 2021, I mailed a true and correct copy of this foregoing NOTICE OF APPEAL to the following:

COURT OF APPEALS NEVADA
201 S. CARSON ST.
CARSON CITY, NV, 89701

BY: RONALD ALLEN JR
PRO-SE

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, NOTICE
OF APPEAL

Filed in case number: A-20-B15539 (Title of Document) W

Document does not contain the social security number of any person

Or

Document contains the social security number of a person as required by:

A Specific state or federal law, to wit

Or

For the administration of a public program

Or

For an application for a federal or state grant

Or

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: JULY 12TH, 2021

Ronald Allen
(Signature)

RONALD ALLEN JR
(Print Name)

PRO-SE
(Attorney for)

1 R. Allen
2 P.O. Box 1989
3 Elko, Nevada 89301
4 MOSA

5 IN THE COURT OF APPEALS FOR
6 THE STATE OF NEVADA

7
8 NAME, RONALD ALLEN, JR. ID 1185020

9 Plaintiff(s),

10 -vs-

11 NAME, WILLIAM GITTERE, WARDEN ESP

12 Defendant(s).

CASE NO.

A-20-818539-W

13
14
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16
17 COMES NOW, RONALD ALLEN, JR., in PRO PER and herein above respectfully

18 Moves this Honorable Court for an ORDER OF STAY AND ABSTINANCE.

19
20
21
22
23 The above is made and based on the following Memorandum of Points and Authorities.

24
25
26 **RECEIVED**

JUL 15 2021

27 ELIZABETH A. BROWN
28 CLERK OF SUPREME COURT
DEPUTY CLERK

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 (1) On February 16, 2018 the Judgment of Conviction
4 in C-16-318 255-1 was filed in the Eighth Judicial
5 District Court, Clark County, Nevada.

6
7 (2) The Plaintiff filed an appeal to the Nevada Court
8 of Appeals. The appeal was DENIED. Remittitur was
9 filed on May 16, 2019. The Plaintiff thus had until
10 May 16, 2020 to file a Post-Conviction Petition for
11 Writ of Habeas Corpus.

12
13 (3) Clark County Clerk of the Court STEVEN D. GRIERSON
14 received the Plaintiff's Petition on May 8, 2020 (see
15 copy attached - EXHIBIT A). The Petition was not
16 filed, however, until May 27, 2020.

17
18 (4) On February 23, 2021, the Eighth Judicial District
19 Court denied Plaintiff's Petition on the ground
20 that the Petition was untimely (NRS 34.726(1));
21 and, that Plaintiff failed to put forth an argu-
22 ment establishing good cause as to the untime-
23 ly petition.

24
25 (5) On June 22, 2021 the Order Denying Petition was
26 mailed to the Plaintiff at Ely State Prison, in Ely.
27 (see copy attached - EXHIBIT B).

(6) On July 2, 2021, Plaintiff wrote to Clerk of Court Steven Grierson to inquire what caused the three-week delay in filing the petition. See Huebner v. State, 107 Nev. 328, 810 P.2d 1209, 107 Nev. Adv. Rep. 49, 1991 Nev. LEXIS 52 (Nev. app. dismissed 107 Nev. 1123, 838 P.2d 945, 1991 Nev. LEXIS 898 (Nev. 1991)).

(7) Plaintiff is Appealing Denial of Writ to Nevada Court of Appeals, pursuant to Section 4 of Article 6 of Nevada Constitution; and, Nev. Rev. Statutes § 34.575(i), and § 34.830. Lesmond v State, 114 Nev 219.

(8) Ronald Allen, Jr., #1185020 Respectfully Prays this Honorable Court will STAY consideration of the District Court's Denial of the Petition until Plaintiff receives response from Clerk of Court.

WHEREFORE, based on the above Motion, Plaintiff urges this Court to stay for ninety (90) days its consideration of Plaintiff's appeal, pursuant to NRAP Rule 8(B)(i) and 8(B)(ii)

Dated this 12TH day of July, 2021

By: RONALD E. ALLEN

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCPC Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein

and that on this 12 day of JULY, 2021, I mailed a true and correct copy of this
foregoing Motion FOR STAY & ADEYANCE to the following:

NEVADA COURT OF APPEALS
201 S CARSON CT.
CARSON CITY, NV 89701

BY: RONALD E. ALLEN

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AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document,

Motion of

STAY AND ABEYANCE.

A-20-815539-W (Title of Document)

Filed in case number: _____.

Document does not contain the social security number of any person

Or

Document contains the social security number of a person as required by:

A Specific state or federal law, to wit

Or

For the administration of a public program

Or

For an application for a federal or state grant

Or

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: JULY 12th, 2021

Ronald Allen Jr
(Signature)

RONALD ALLEN
(Print Name)

PRO-SE
(Attorney for)

EXHIBIT A

Case No. C-110-810255-1

Dept. No. 12

FILED

MAY 27 2020

Elizabeth A. Brown
CLERK OF COURT

IN THE EIGHT JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

RONALD ALLEN, JR.
Petitioner,

A-20-815539-W
Dept. 29

v.

WILLIAM GINTERE WARREN
Respondent. ESP

**PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)**

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you're not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.
- (6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

RECEIVED
 JUL 15 2021
 RECEIVED
 MAY - 8 2020
 ELIZABETH A. BROWN
 CLERK OF SUPREME COURT
 DEPUTY CLERK OF THE COURT

CLERK OF THE COURT
201 S. CARSON ST. SUITE 201
CARSON CITY, NV, 89701

DATE: 5.11.2021

RE: CASE NO. A-20-015539-W
REQUEST FOR DOCKET SHEET.

DEAR CLERK,

I AM RESPECTFULLY REQUESTING A
COPY OF THE DOCKET SHEET IN THE ABOVE
CASE NUMBER. ENCLOSED IS A CASE SUMMARY
DATED: 2/23/2021 HEARINGS FOR A WRIT
OF HABEAS CORPUS.

I HAVE NOT HEARD ANY THING BACK
FROM THE COURTS OF WHAT HAPPENED
AT MY COURT HEARINGS 2/23/21 -

I PLEASE ASK THAT YOU WAIVE ANY
FEE ASSOCIATED WITH THIS REQUEST DUE
TO MY INDIGENCE AND INABILITY TO
PAY -

I APPRECIATE YOUR ASSISTANCE IN THIS
MATTER.

RECEIVED
MAY 17 2021
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

~~RECEIVED~~

RESPECTFULLY,
DONALD ALLEN
P.O. BOX - 19809
ELY, NEVADA. 89301

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-815539-W

Ronald Allen, Plaintiff(s)

vs.

William Gittere, Warden ESP, Defendant(s)

§
§
§
§
§

Location: Department 2

Judicial Officer: Kierny, Carli

Filed on: 05/27/2020

Case Number History:

Cross-Reference Case Number: A815539

Number:

CASE INFORMATION

Related Cases

C-16-318255-1 (Writ Related Case)

Case Type: Writ of Habeas Corpus

Case Status: 05/27/2020 Open

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number: A-20-815539-W
Court: Department 2
Date Assigned: 01/04/2021
Judicial Officer: Kierny, Carli

PARTY INFORMATION

Lead Attorneys

Plaintiff

Allen, Ronald

Pro Se

Defendant

Nevada State of

Mishler, Karen
Retained
702-671-2728(W)

William Gittere, Warden ESP

Mishler, Karen
Retained
702-671-2728(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

05/27/2020

Inmate Filed - Petition for Writ of Habeas Corpus
Party: Plaintiff Allen, Ronald
Post Conviction

01/04/2021

Case Reassigned to Department 2
Judicial Reassignment to Judge Carli Kierny

01/04/2021

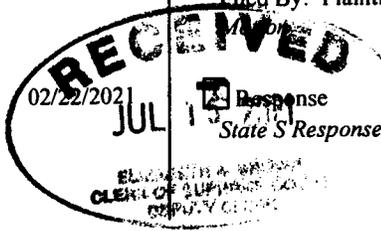
Order for Petition for Writ of Habeas Corpus
Order for Petition for Writ of Habeas Corpus

02/04/2021

Motion
Filed By: Plaintiff Allen, Ronald

02/22/2021

Response
State's Response to Defendant's Petition for Writ of Habeas Corpus (Post Conviction)



CASE SUMMARY
CASE NO. A-20-815539-W

HEARINGS

02/23/2021

 **Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Kierny, Carli)**

Denied;

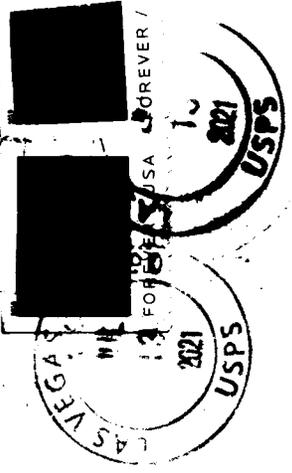
Journal Entry Details:

Having considered Petitioner Allen s Writ of Habeas Corpus, COURT ORDERED, Petition is DENIED as the petition is untimely. NRS 34.726(1) states unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the Supreme Court issues its remittitur. Further, the NV Supreme Court has held the one-year time bar is strictly construed and enforced. Gonzales v. State, 118 Nev. 590. Petitioner must establish good cause to overcome the procedural bar of NRS 34.726 (1). The underlying case from which Mr. Allen files his writ is C-16-318255-1. The Judgment of Conviction in that matter was filed on February 16, 2018 following a guilty verdict rendered by the jury. Thus, under NRS 34.726(1), Mr. Moore had until February 16, 2019 to file his petition unless there was a direct appeal. Mr. Moore did file an appeal to the NV Court of Appeals raising the same arguments herein, which was denied and the remittitur was filed on May 16, 2019. Thus, Mr. Allen had until May 16, 2020 to file this petition. He did not do so until May 27, 2020. Petitioner has failed to put forth an argument establishing good cause as to his untimely petition; thus, the petition lacks good cause and must be dismissed. Additionally, petitioner failed to make a showing of ineffective assistance of counsel under the two prong test in Strickland, which was adopted by the Nevada Supreme Court in Warden v. Lyons. The two prong test provides: A defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Here, petitioner failed to articulate why or how his former counsel s representation fell below an objective standard of reasonableness or that but for his former counsel s errors, there is a reasonable probability that the result of the proceedings would have been different. Petitioner fails to articulate what amount of credit for time served he was not credited with. Thus, he has failed to make the required showings. ;

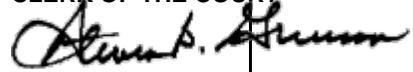
RONALD ALLEN *1105020
ELY STATE PRISON
P.O. BOX - 1909
ELY, NEVADA, 89301

SUPREME COURT OF NEVADA
ATTN: COURT OF APPEALS
201 S. CARSON ST, SUITE 201
CARSON CITY, NEVADA, 89701

9570134750 0003



ELY STATE PRISON
JUL 11 2021



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7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 RONALD ALLEN, JR.,

11 Plaintiff(s),

12 vs.

13 WILLIAM GITTERE, WARDEN ESP,

14 Defendant(s),
15

Case No: A-20-815539-W

Dept No: II

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Ronald Allen Jr.

19 2. Judge: Carli Kierny

20 3. Appellant(s): Ronald Allen Jr.

21 Counsel:

22 Ronald Allen Jr. #1185020
23 P.O. Box 1989
24 Ely, NV 89301

25 4. Respondent (s): William Gittere, Warden ESP

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

- 1
2 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
3 Permission Granted: N/A
4 Respondent(s)'s Attorney Licensed in Nevada: Yes
5 Permission Granted: N/A
6
7 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
8
9 7. Appellant Represented by Appointed Counsel On Appeal: N/A
10
11 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
12 **Expires 1 year from date filed
13 Appellant Filed Application to Proceed in Forma Pauperis: No
14 Date Application(s) filed: N/A
15
16 9. Date Commenced in District Court: May 27, 2020
17
18 10. Brief Description of the Nature of the Action: Civil Writ
19 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
20
21 11. Previous Appeal: No
22 Supreme Court Docket Number(s): N/A
23
24 12. Child Custody or Visitation: N/A
25
26 13. Possibility of Settlement: Unknown

27 Dated This 4 day of August 2021.

28 Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Ronald Allen Jr.

CASE SUMMARY
CASE NO. A-20-815539-W

Ronald Allen, Plaintiff(s)
 vs.
William Gittere, Warden ESP, Defendant(s)

§
 §
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 §

Location: **Department 2**
 Judicial Officer: **Kiorny, Carli**
 Filed on: **05/27/2020**
 Case Number History:
 Cross-Reference Case Number: **A815539**

CASE INFORMATION

Related Cases
 C-16-318255-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **05/27/2020 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-20-815539-W
Court	Department 2
Date Assigned	01/04/2021
Judicial Officer	Kiorny, Carli

PARTY INFORMATION

Plaintiff	Allen, Ronald	<i>Lead Attorneys</i>
		Pro Se
Defendant	Nevada State of	Mishler, Karen <i>Retained</i> 702-671-2728(W)
	William Gittere, Warden ESP	Mishler, Karen <i>Retained</i> 702-671-2728(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

05/27/2020	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Allen, Ronald <i>[1] Post Conviction</i>
01/04/2021	Case Reassigned to Department 2 <i>Judicial Reassignment to Judge Carli Kiorny</i>
01/04/2021	 Order for Petition for Writ of Habeas Corpus <i>[2] Order for Petition for Writ of Habeas Corpus</i>
02/04/2021	 Motion Filed By: Plaintiff Allen, Ronald <i>[3] Motion</i>
02/22/2021	 Response <i>[4] State S Response to Defendant's Petition for Writ of Habeas Corpus (Post Conviction)</i>
07/15/2021	

CASE SUMMARY
CASE NO. A-20-815539-W

 Notice of Appeal
Notice of Appeal

08/04/2021

 Case Appeal Statement
Filed By: Plaintiff Allen, Ronald
Case Appeal Statement

HEARINGS

02/23/2021

 **Petition for Writ of Habeas Corpus (9:00 AM)** (Judicial Officer: Kierny, Carli)

Denied;

Journal Entry Details:

Having considered Petitioner Allen s Writ of Habeas Corpus, COURT ORDERED, Petition is DENIED as the petition is untimely. NRS 34.726(1) states unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the Supreme Court issues its remittitur. Further, the NV Supreme Court has held the one-year time bar is strictly construed and enforced. Gonzales v. State, 118 Nev. 590. Petitioner must establish good cause to overcome the procedural bar of NRS 34.726 (1). The underlying case from which Mr. Allen files his writ is C-16-318255-1. The Judgment of Conviction in that matter was filed on February 16, 2018 following a guilty verdict rendered by the jury. Thus, under NRS 34.726(1), Mr. Moore had until February 16, 2019 to file his petition unless there was a direct appeal. Mr. Moore did file an appeal to the NV Court of Appeals raising the same arguments herein, which was denied and the remittitur was filed on May 16, 2019. Thus, Mr. Allen had until May 16, 2020 to file this petition. He did not do so until May 27, 2020. Petitioner has failed to put forth an argument establishing good cause as to his untimely petition; thus, the petition lacks good cause and must be dismissed. Additionally, petitioner failed to make a showing of ineffective assistance of counsel under the two prong test in Strickland, which was adopted by the Nevada Supreme Court in Warden v. Lyons. The two prong test provides: A defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Here, petitioner failed to articulate why or how his former counsel s representation fell below an objective standard of reasonableness or that but for his former counsel s errors, there is a reasonable probability that the result of the proceedings would have been different. Petitioner fails to articulate what amount of credit for time served he was not credited with. Thus, he has failed to make the required showings. ;

DISTRICT COURT CIVIL COVER SHEET

A-20-815539-W
 Dept. 29

County, Nevada

Case No. _____
 (Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Ronald Allen, Jr.</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">William Gittere, Warden ESP</p>
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types		
<p style="text-align: center;">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p style="text-align: center;">Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p style="text-align: center;">Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p style="text-align: center;">Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p style="text-align: center;">Probate</p> <p><i>(select case type and estate value)</i></p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p style="text-align: center;">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p style="text-align: center;">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p style="text-align: center;">Civil Writ</p> <p>Civil Writ</p> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum		<p style="text-align: center;">Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

May 27, 2020

PREPARED BY CLERK

Date

Signature of initiating party or representative

See other side for family-related case filings.

A-20-815539-W Ronald Allen, Plaintiff(s)
vs.
William Gittere, Warden ESP, Defendant(s)

February 23, 2021 09:00 AM Petition for Writ of Habeas Corpus
HEARD BY: Kierny, Carli COURTROOM: RJC Courtroom 16B
COURT CLERK: Brown, Kristen
RECORDER:
REPORTER:
PARTIES PRESENT:

JOURNAL ENTRIES

Having considered Petitioner Allen s Writ of Habeas Corpus, COURT ORDERED, Petition is DENIED as the petition is untimely. NRS 34.726(1) states unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the Supreme Court issues its remittitur. Further, the NV Supreme Court has held the one-year time bar is strictly construed and enforced. Gonzales v. State, 118 Nev. 590. Petitioner must establish good cause to overcome the procedural bar of NRS 34.726(1).

The underlying case from which Mr. Allen files his writ is C-16-318255-1. The Judgment of Conviction in that matter was filed on February 16, 2018 following a guilty verdict rendered by the jury. Thus, under NRS 34.726(1), Mr. Moore had until February 16, 2019 to file his petition unless there was a direct appeal. Mr. Moore did file an appeal to the NV Court of Appeals raising the same arguments herein, which was denied and the remittitur was filed on May 16, 2019. Thus, Mr. Allen had until May 16, 2020 to file this petition. He did not do so until May 27, 2020. Petitioner has failed to put forth an argument establishing good cause as to his untimely petition; thus, the petition lacks good cause and must be dismissed.

Additionally, petitioner failed to make a showing of ineffective assistance of counsel under the two prong test in Strickland, which was adopted by the Nevada Supreme Court in Warden v. Lyons. The two prong test provides: A defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Here, petitioner failed to articulate why or how his former counsel s representation fell below an objective standard of reasonableness or that but for his former counsel s errors, there is a reasonable probability that the result of the proceedings would have been different. Petitioner fails to articulate what amount of credit for time served he was not credited with. Thus, he has failed to make the required showings.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

RONALD ALLEN JR. #1185020
P.O. BOX 1989
ELY, NV 89301

DATE: August 4, 2021
CASE: A-20-815539-W

RE CASE: RONALD ALLEN, JR. vs. WILLIAM GITTERE, WARDEN ESP

NOTICE OF APPEAL FILED: July 15, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

RONALD ALLEN, JR.,

Plaintiff(s),

vs.

WILLIAM GITTERE, WARDEN ESP,

Defendant(s),

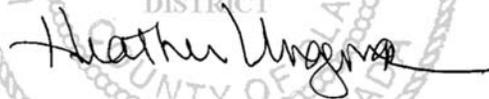
Case No: A-20-815539-W

Dept No: II

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 4 day of August 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

