



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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Elizabeth A. Brown
Clerk of Supreme Court

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Court Division Administrator

July 26, 2021

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: DAINE CRAWLEY vs. WARDEN WILLIAMS, HDSP
S.C. CASE: 83136
D.C. CASE: A-20-816041-W

Dear Ms. Brown:

Pursuant to your Order Directing Entry and Transmission of Written Order, dated July 14, 2021, enclosed is a certified copy of the Findings of Fact, Conclusions of Law, and Order filed July 22, 2021 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink, appearing to read "A Hampton", is written over a horizontal line.

Amanda Hampton, Deputy Clerk

Heather S. Lamin

CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

DAINE CRAWLEY,
#7031173

Defendant.

CASE NO: A-20-816041-W

C-19-341735-1

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: MAY 25, 2021
TIME OF HEARING: 3:00 PM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE BLUTH, District Judge, on the 25th day of May 2021, the Defendant not present, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, not present, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On July 12, 2019, Daine Crawley (hereinafter ("Crawley" and/or "Defendant") was
4 charged by way of Information for having committed the crime of Carrying Concealed Firearm
5 or Other Deadly Weapon (Category C Felony- NRS 202.350 (1)(d)(3)- NOC 51459).

6 On July 15, 2019, Crawley entered a plea of guilty to the crime as listed in the
7 Information at Initial Arraignment. The Guilty Plea Agreement ("GPA") was filed the same
8 day in open court.

9 On October 28, 2019, Crawley filed a Motion to Dismiss Counsel and Appoint
10 Alternate Counsel. On November 13, 2019, defense counsel moved for the withdrawal of the
11 GPA and advised there was incorrect information in the Presentence Investigation Report
12 ("PSI") and that another evaluation has to be done. The Court ordered Carl Arnold, Esq., to
13 be appointed as counsel for the limited basis of the Motion to Withdraw Plea. On November
14 19, 2019, the State filed its Notice of Intent to Seek Punishment as a Habitual Criminal

15 On January 31, 2020, Crawley filed a Motion to Withdraw Plea. The State filed its
16 Opposition on February 14, 2020. On February 19, 2020, the District Court heard oral
17 arguments on the motion. The Court concluded that there was an insufficient basis to withdraw
18 the plea and denied the motion.

19 On March 4, 2020, Crawley's sentencing hearing took place. At the hearing, the State
20 argued in support of Habitual Treatment since he violated his agreement. Defense counsel
21 provided that there were errors within Crawley's PSI. The Court ordered that the sentencing
22 proceedings be continued to correct the PSI. On April 1, 2020, Crawley was sentenced
23 pursuant to the Small Habitual Criminal Statute. Crawley was sentenced to a minimum of
24 eighty-four (84) months and a maximum of two hundred-forty (240) months in the Nevada
25 Department of Corrections (NDC). Defendant stated he had two hundred sixty-one (261) days
26 credit. The District Court ordered sixty-seven (67) days credit for time served.

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1 On April 6, 2020, Crawley filed a Notice of Appeal. The Judgment of Conviction
2 ("JOC") was filed on April 7, 2020. Crawley's Case Appeal Statement was filed on April 13,
3 2020. On May 11, 2020, Carl Arnold, Esq. was appointed as appellate counsel.

4 On June 4, 2020, and June 12, 2020, Crawley filed Petitions for Writ of Habeas Corpus
5 (Post-Conviction). The State responded to both Petitions filed by Crawley on July 21, 2020.
6 On August 26, 2020, appointed Carl Arnold as counsel.

7 On March 18, 2021, Crawley filed the instant pro-per Supplement Petition for Writ of
8 Habeas Corpus (Post-Conviction) ("Supplement Petition"). The State filed its Response on
9 May 6, 2021. This Court denied the Supplement Petition on May 25, 2021.

10 STATEMENT OF THE FACTS

11 This Court relied on the following factual summary in sentencing Defendant:

12 On June 12, 2019, officers were dispatched to a location
13 between the Excalibur and the Luxor in reference to a person
14 threatening pedestrians with a knife. Upon arrival, contact was
15 made with a witness who stated he was walking with his friend
16 through the hotel parking lot when they were approached by a
17 male, later identified as defendant Daine Anton Crawley, who got
18 in his face and made unintelligible comments while retrieving a
19 knife from his backpack. The witness felt threatened by the
20 defendant who held the knife in his hand with the blade exposed.
21 He stepped away from the defendant who then approached a
22 vehicle with three occupants and attempted to open the door
23 before the car drove away. As the defendant walked to another
24 vehicle and hit the window, the witness notified police and
25 security.

26 Officers also spoke to witness' friend who relayed the same
27 events as described by the witness. While the defendant was being
28 detained, he stated that he did not have a knife; however, officers
located a knife in his pocket.

Based on the above facts, Mr. Crawley was arrested,
transported to the Clark County Detention Center, and booked
accordingly.

Presentence Investigation Report ("PSI"), August 27, 2019, at 7-8.

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1 **AUTHORITY**

2 **I. DEFENDANT'S CLAIMS ARE PROCEDURALLY BARRED**

3 NRS 34.810(1) reads:

4 The court shall dismiss a petition if the court determines that:

5 (a) The petitioner's conviction was upon a plea of guilty or guilty
6 but mentally ill and the petition is not based upon an allegation
7 that the plea was involuntarily or unknowingly or that the plea was
8 entered without effective assistance of counsel.

9 (b) The petitioner's conviction was the result of a trial and the
10 grounds for the petition could have been:

11 (2) Raised in a direct appeal or a prior petition for a writ of habeas
12 corpus or postconviction relief.

13 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and claims
14 of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction
15 proceedings.... [A]ll other claims that are appropriate for a direct appeal must be pursued on
16 direct appeal, or they will be *considered waived in subsequent proceedings.*" Franklin v. State,
17 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added) (disapproved on other
18 grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). "A court must dismiss a
19 habeas petition if it presents claims that either were or could have been presented in an earlier
20 proceeding, unless the court finds both cause for failing to present the claims earlier or for
21 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-
22 47, 29 P.3d 498, 523 (2001).

23 Under NRS 34.810,

24 1. The court *shall* dismiss a petition if the court determines that:

25 (a) The petitioner's conviction was upon a plea of guilty or guilty but
26 mentally ill and the petition is not based upon an allegation that the
27 plea was involuntarily or unknowingly entered or that the plea was
28 entered without effective assistance of counsel.

...

unless the court finds both cause for the failure to present the
grounds and actual prejudice to the petitioner.

(emphasis added). Further, substantive claims are beyond the scope of habeas and waived.

NRS 34.724(2)(a); Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001); Franklin

1 v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds,
2 Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

3 A defendant may only escape these procedural bars if they meet the burden of
4 establishing good cause and prejudice:

5 3. Pursuant to subsections 1 and 2, the petitioner has the burden of
6 pleading and proving specific facts that demonstrate:

7 (a) Good cause for the petitioner's failure to present the claim or
8 for presenting the claim again; and

9 (b) Actual prejudice to the petitioner.

10 NRS 34.810(3). Where a defendant does not show good cause for failure to raise claims of
11 error upon direct appeal, the district court is not obliged to consider them in post-conviction
12 proceedings. Jones v. State, 91 Nev. 416, 536 P.2d 1025 (1975).

13 Here, the grounds Defendant raises in his Supplement Petition are proper only for a
14 direct appeal, and thereby, waived. Specifically, Defendant presents four (4) grounds to this
15 Court: (1) Equal Protection/Due Process violation; (2) errors within Defendant's PSI; (3)
16 violation of the Court's Administrative Order; and (4) error in adjudication as a habitual
17 criminal. Supplement Petition, 6-12. Defendant does not challenge the validity of a guilty plea
18 and/or raise claims of ineffective assistance of counsel. See generally, Id. Indeed, the issues
19 Defendant does raise in this Supplement Petition are improperly brought before this Court. As
20 such, these substantive claims proper for only direct appeal are barred in this Petition.

21 Even still Defendant does not attempt to demonstrate good cause or prejudice for
22 raising these claims for the first time in the instant proceedings. See Supplement Petition.
23 Thus, such claims are denied.

24 **II. DEFENDANT'S SUPPLEMENTAL PETITION IS A FUGITIVE 25 DOCUMENT**

26 Defendant's instant pro per Supplement Petition should be dismissed as a fugitive
27 document. EJDRC 7.40(a) states:

28 When a party has appeared by counsel, the party cannot thereafter
appear on the party's own behalf in the case without the consent
of the court. Counsel who has appeared for any party must

1 represent that party in the case and shall be recognized by the court
2 and by all parties as having control of the case. The court in its
3 discretion may hear a party in open court although the party is
represented by counsel.

4 Carl Arnold, Esq., was confirmed as counsel on August 26, 2020. The instant
5 Supplement Petition was filed seven months later on March 18, 2021. Because Defendant
6 cannot appear on his own behalf after he had already appeared by counsel, the current
7 Supplement Petition is dismissed as a fugitive document.

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that Defendant's Supplemental Petition for
10 Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby denied.

11 ~~DATED~~ this ____ day of June, 2021.

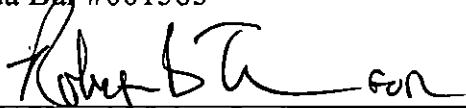
Dated this 22nd day of July, 2021

12 
13 DISTRICT JUDGE

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

B2B 83A 2614 D93C
Jacqueline M. Bluth
District Court Judge

kj
MT

16 BY 
17 KAREN MISHLER
18 Chief Deputy District Attorney
Nevada Bar #13730

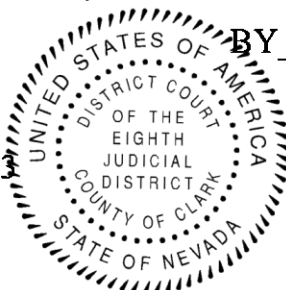
19
20 **CERTIFICATE OF MAILING**

21 I hereby certify that service of the above and foregoing was made this 24th day of June,
22 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

23 DAINÉ CRAWLEY #1167447
24 HIGH DESERT STATE PRISON
PO BOX 650
25 INDIAN SPRINGS, NV, 89070

26 July 26, 2021

27 KM/mah/Ls



BY 
Secretary for the District Attorney's Office

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Daine Crawley, Plaintiff(s)

CASE NO: A-20-816041-W

7 vs.

DEPT. NO. Department 6

8 Warden Williams, HDSP,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Finding of Fact and Conclusions of Law was served via the court's
14 electronic eFile system to all recipients registered for e-Service on the above entitled case as
listed below:

15 Service Date: 7/22/2021

16 Steven Wolfson

motions@clarkcountyda.com