

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAINE ANTON CRAWLEY,
Appellant(s),

vs.

BRIAN WILLIAMS, WARDEN, HIGH
DESERT STATE PRISON,
Respondent(s),

Electronically Filed
Aug 05 2021 12:40 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-20-816041-W

Docket No: 83136

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
DAINE CRAWLEY #1167447,
PROPER PERSON
P.O. BOX 7007
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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A-20-816041-W

Daine Crawley, Plaintiff(s)

vs.

Warden Williams, HDSP, Defendant(s)

I N D E X

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FILED

JUN 04 2020

John T. Johnson
CLERK OF COURT

Case No.: C341735

Dept. No.: District VI

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

Daine Anton Crawley # 1167447

Petitioner,

v.

Warden Williams, High Desert State Prison

Respondent.

A-20-816041-W

Dept. VI

PETITION FOR WRIT OF
HABEAS CORPUS

(Post-conviction)

(NRS 34.720 et seq.)

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 are 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.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty:

High Desert State Prison Indian Springs, Nevada

2. Name and location of court which entered the judgment of conviction under attack:

Eighth Judicial District Court of the State of Nevada, Clark County

3. Date of judgment of conviction: April 1st, 2020

4. Case number: C-19-341735-1

5. (a) Length of sentence:

84 to 240 months

b) If sentence is death, state any date upon which execution is scheduled:

N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes X No _____

If "yes," list crime, case number and sentence being served at this time: Grand Larceny /
C342801 / 12 to 30 months

7. Nature of offense involved in conviction being challenged:

Carry concealed weapon, Firearm or other deadly weapon: To
with multi purpose knife, one count

8. What was your plea? (check one)

- (a) Not guilty _____
(b) Guilty X
(c) Guilty but mentally ill _____
(d) Nolo contendere _____

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details:

A plea of guilty was plead for a negotiated 1 to 5 year probationable sentence for case C341735 and a negotiated plea for 1 to 5 year probationable sentence to run concurrently for case C42881 in which the state agreed to not seek habitual criminal treatment.

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

- (a) Jury _____
(b) Judge without a jury _____

11. Did you testify at the trial? Yes _____ No _____

12. Did you appeal from the judgment of conviction? Yes X No _____

13. If you did appeal, answer the following:

- (a) Name of court: Eighth Judicial District for Clark County / notice of appeal
(b) Case number or citation: C-19-341735-1
(c) Result:

A notice of appeal was filed to the Eighth Judicial District for Clark County to be appealed to the Supreme Court of Nevada, still pending

(d) Date of result: _____

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes _____ No X

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes: _____ No: X

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes _____ No X

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes X No _____

Citation or date of decision: Still pending

(2) Second petition, application or motion? Yes _____ No _____

Citation or date of decision: _____

(3) Third or subsequent petitions, applications or motions? Yes _____ No _____

Citation or date of decision: _____

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.):

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same:

A notice of appeal was filed only

(b) The proceedings in which these grounds were raised:

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

[illegible]

A notice of appeal for Judgment of conviction case C341735 NY Supreme Court

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: Violation of 14th Amendment, Equal Protection Clause / Due process of law
Violation of NRS 171.174, NRS 171.104, NRS 171.196

Supporting FACTS (Tell your story briefly without citing cases or law.):

On June 12th, 2019. The Defendant Daine A. Crawley was unlawfully detained for possible involvement in Assault w/ Deadly weapon case. Despite numerous requests for Body cam footage and/or other related exculpatory evidence including Discovery / filing of motion to inspect all evidence favorable to defense none was provided by District Attorney David Stanton or Public Defender Erika Ballou. Defendant Crawley was stopped between the Luxor and Excalibur parking lots adjacent to the Luxor Hotel and Casino. A multi purpose tool / with Razor blade attached was retrieved from Daine A. Crawley's belt body cam footage will show. Upon seizure Mr. Crawley was booked for Assault with Deadly Weapon on June 12th 2019 at 21:01 hours. The property inventory sheet at Clark County Detention Center shows discrepancies in description of clothing in police report and lack of weapon other than said tool / tools listed. On June 17th 2019 Mr. Crawley was brought before the Judge for an initial arraignment. This now being "5 days" after arrest violating 14th amendment right and NRS 171.174 exceeding "72 hour hearing". After court the morning of June 17th 2019, Mr. Crawley was formally booked at 1600 / 4:00pm according to Temporary Custody Record on June 17th 2019 by an officer Joshua D. Ferry despite being hours after initial court appearance violating NRS. 171.104. In addition to these due process rights violations the preliminary hearing for both charges were scheduled to be on July 1st 2019, but were continued until July 11th 2019 for unknown reason by David Stanton despite Defendant being in custody and not being brought before the court. Violating Amendments 4 and 6, NRS 171.196 and Federal Rules for criminal procedure. It was later used as a tactic by District Attorney David Stanton and Public Defender Erika Ballou to entice a Guilty Plea agreement of a 1 to 5 year probationable sentence which in turn was used to adjudicate Mr. Crawley as an habitual offender, and sentence of 84 to 240 months.

(b) Ground two: Violation of Amendment 6, Amendment 7, Amendment 5
Blinkenship vs. State, Supreme Court of Nevada July 31, 2016.

Supporting FACTS (Tell your story briefly without citing cases or law:

Prosecutorial misconduct was exercised at both March 4th, 2020 and April 1st, 2020 Sentencing hearings regarding Mr. Crawley's Mental Health / Physical Handicap. Mr. Crawley's attempts to seek adequate counsel in dismissing Public Defender Erika Ballou for inappropriate representation involving violation of Due process rights and withdrawal of guilty plea in November of 2019 resulted in malicious vindictive prosecution. Mr. Crawley was unable to speak on his own behalf during the hearing related to the withdrawal of guilty plea prior to the withdrawal being denied in January 2020. An evidentiary hearing was never held to weigh exculpatory evidence and/or mental health issues. Mr. Crawley has suffered from bouts of PTSD / Social Anxiety disorders since 2004, these mental health issues were the basis of the withdrawal of guilty plea. The stability of his mental health during the signing of the guilty plea in July 2019 are in question due to not being on his medication during that time due to incarceration. Mr. Crawley believed he was signing a 1 to 5 year probationable sentence with 18 to 60 months recommended by PNP, This mislead plea agreement led to an 84 to 240 month sentence. Issues with PSI were addressed through multiple hearings from November 2019 through April 1st, 2020 Sentencing. The most notable discrepancies are with the PSP Scoring sheet regarding mental health and physical handicap. The pre sentence adjustment section is in error and can be seen in difference with PSI for case number C342081. A supplemental PSI report was brought into question in that the same issues remained unclarified. On the 7th page it states issue with contacting Attorney Carl Arnold, and not being able to receive response. A response from Defendant is stated via Email although Defendant was in custody "260" days at this point and could not of responded in this manner.

(c) Ground three: Violation of Administrative order 20-06 filed
March 18th, 2020

Supporting FACTS (Tell your story briefly without citing cases or law.):

Communication with Counsel has been futile due to the COVID 19, Corona Virus pandemic. The Administrative order: 20-06 In the administrative matter of court operations of criminal matters in response to Covid-19 clearly states from lines 8-12 dated March 18th, 2020, that "attorneys are cautioned that it will be absolutely necessary to prepare clients for guilty pleas, Sentencings, and probation revocations prior to court". This lack of contact due to social distancing with Attorney Carl Arnold in turn led to extreme Sentencing. Mr. Crawley asked for continuance to address issues in probation Success probability Score page 7, but was denied right to consult with counsel due to Coronavirus/COVID 19 pandemic. The Defendant is requesting that the sentence be challenged due to these errors and lack of contact with court appointed Attorney Carl Arnold amid the COVID 19/Corona Virus pandemic. Mr. Crawley signed a 1 to 5 year probationable sentence, and the above errors were used to adjudicate Mr. Crawley to Habitual offender status by District Attorney David Stanton and Judge Jacqueline Bluth despite various attempts to withdraw guilty plea and/or dismiss Counsel.


(d) Ground four: 8th Amendment cruel and unusual punishment, 7th Amendment Right to Jury trial.

Supporting FACTS (Tell your story briefly without citing cases or law.):

It is the prosecutorial misconduct in previous years known by District Attorney David Stanton and the inappropriate representation throughout the duration of case C341735 that led to guilty plea coercion through fear of life imprisonment due to false police report that was withheld by Public Defenders office. Court transcripts of both case C341735 and C342881 show the malice and vindictive prosecution by David Stanton due to the Defendants attempt and eventual acceptance into The Drug Court program. It is a well known fact according to the website Appeal.Org, That Mr. David Stanton's anger and vindictive prosecution tactics have led him to be fired from Reno, Nevada's DA's office in 1999. He was arrested for resisting arrest and has taken Anger management counseling related to his career. Mr. Stanton has been involved in a tradition in Clark County of paying witnesses for testimony from a secret checking account. In light of this information Mr. Crawley attempted to enlighten appointed Attorney Carl Arnold of these facts but was told to not disclose them in open Court in relation to the withdrawal of guilty plea. It is the defendants belief that this is why Mr. Arnold did not attend April 1st 2020 rendition of sentencing and Mr. Crawley was denied a continuance to consult with Substitute Counsel or Mr. Arnold in relation to PSI/PSP Scoring issues. The result being 84 to 240 months for Carry Concealed Weapon / To wit multi purpose tool / Knife. The website is as follows <https://theappeal.org/lessons-and-legal-pads-the-cowboy-culture-of-the-clark-county-nevada/>.

WHEREFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at Sioux Falls on the 29th day of the month of April of the year 2020



Signature of petitioner

HDSP P.O. Box 650 Indian Springs NV 89070

Address

Signature of attorney (if any)

Attorney for petitioner

Address

VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true.



Petitioner

Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, Daine Crawley hereby certify, pursuant to N.R.C.P. 5(b), that on this 29th day of the month of April of the year 2020, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Warden Williams / High Desert State Prison
Respondent prison or jail official

P.O. Box 650 Indian Springs, NV 89070
Address

Aaron Ford
Attorney General

100 North Carson Street Carson City, NV 89701
Address

Steven B. Wolfson
District Attorney of County of Conviction

200 Lewis Avenue Las Vegas, NV 89155-2212
Address

Re: State of Nevada v. Daine Crawley

Case No. C341735

Dear Mr./Ms. _____:

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his client shall, upon demand...Immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 166(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as ... surrendering papers and property to which the client is entitled..."

I hereby formally make demand that you provide my entire file, including, but not limited to all papers, documents, pleading and items of tangible personal property which belong to or were prepared on my behalf to me at the address set forth on this letter.

As you know pursuit of post-conviction claims are governed by strict deadlines. Therefore, I cannot stress enough the importance of your providing of your providing my file to me as soon as possible. Your prompt attention to this very important matter is greatly appreciated.

Sincerely,

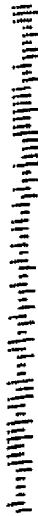
A handwritten signature in black ink, appearing to read "Daine Crawley", written in a cursive style.

Daine Crawley #1167447
HDSP
P.O. Box 650
Indian Springs, NV 89070

NON
MACHINABLE MAIL
PLEASE HAND CANCEL

District Court Clerk
200 Lewis Avenue
Las Vegas, NV 89155

NOT
RECEIVED
APR 29 2020



5400 0003010198

"LEGAL MAIL"

HIGH DESERT STATE PRISON
APR 29 2020
UNIT 1 C/D

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
16 - 17
WILL FOLLOW VIA
U.S. MAIL

Steven D. Grierson

1 PPOW

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 Daine Crawley,

6 Petitioner,

7 vs.

8 Warden Williams, HDSP,

9 Respondent,

Case Ng: A-20-816041-W
Department 6

**ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS**

10
11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on
12 June 04, 2020. The Court has reviewed the Petition and has determined that a response would assist the
13 Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good
14 cause appearing therefore,

15 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,
16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS
17 34.360 to 34.830, inclusive.

18 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's

19 Calendar on the 19th day of August, 2020, at the hour of

20
21 10:15^{am} o'clock for further proceedings.

22
23 *[Signature]*
24
25 District Court Judge *[Initials]*
26
27
28

FILED

JUN 12 2020

Clerk of Court

Case No. C341735
Dept. No. VT

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

Daine Anton Crawley
Petitioner,

v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

Warden Williams, HDSP
Respondent.

A-20-816041-W
Dept. 6

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 are 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.
- (7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: High Desert State Prison Indian Springs, NV
2. Name and location of court which entered the judgment of conviction under attack: Clark County District Court 300 Lewis Avenue Las Vegas, NV 89155
3. Date of judgment of conviction: April 1st, 2020
4. Case number: C341735
5. (a) Length of sentence: 84 + 0240 months

(b) If sentence is death, state any date upon which execution is scheduled:....

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes X No

If "yes," list crime, case number and sentence being served at this time: Grand Larceny C342881
12 to 30 months to run - concurrently with case C341735

7. Nature of offense involved in conviction being challenged: Carrying Concealed Firearm
or other Deadly Weapon To wit: Knife or multipurpose tool

8. What was your plea? (check one)

(a) Not guilty

(b) Guilty X

(c) Guilty but mentally ill

(d) Nolo contendere

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was

negotiated, give details: A plea negotiation was agreed to a 1 to 5 year probationable sentence
for case C341735 and a 1 to 5 year probationable sentence for case C342881 to run -
concurrently with case C341735 and the State would not seek habitual if C342881 is

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one) Signed

(a) Jury

(b) Judge without a jury

11. Did you testify at the trial? Yes No

12. Did you appeal from the judgment of conviction? Yes X No

13. If you did appeal, answer the following:

(a) Name of court: Clark County District Court

(b) Case number or citation: C341735

(c) Result: No reply by courts

(d) Date of result:

(Attach copy of order or decision, if available.)

1 14. If you did not appeal, explain briefly why you did not:

2

3

4 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any
5 petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ☒ No

6 16. If your answer to No. 15 was "yes," give the following information:

7 (a) (1) Name of court: Clark County District Court

8 (2) Nature of proceeding: A notice of appeal was filed, and a Habeas

9 Corpus, but no response on either or notice of receipt of Habeas Corpus

10 (3) Grounds raised: Due process rights violations, incorrect PSI/PSP
11 information

12

13 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No ☒

14 (5) Result:

15 (6) Date of result:

16 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:

17

18 (b) As to any second petition, application or motion, give the same information:

19 (1) Name of court:

20 (2) Nature of proceeding:

21 (3) Grounds raised:

22 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

23 (5) Result:

24 (6) Date of result:

25 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:

26

27 (c) As to any third or subsequent additional applications or motions, give the same information as above, list

28 them on a separate sheet and attach.

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any
2 petition, application or motion?

3 (1) First petition, application or motion? Yes X No

4 Citation or date of decision: no response

5 (2) Second petition, application or motion? Yes No

6 Citation or date of decision:

7 (3) Third or subsequent petitions, applications or motions? Yes No

8 Citation or date of decision:

9 (e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you
10 did not. (You must relate specific facts in response to this question. Your response may be included on paper which
11 is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in
12 length.).....

13
14 17. Has any ground being raised in this petition been previously presented to this or any other court by way of
15 petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

16 (a) Which of the grounds is the same: The court has not notified receipt of
17 Habeas Corpus, the grounds 1 to 3 are similar

18 (b) The proceedings in which these grounds were raised:
19

20 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this
21 question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your
22 response may not exceed five handwritten or typewritten pages in length.)
23

24 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached,
25 were not previously presented in any other court, state or federal, list briefly what grounds were not so presented,
26 and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your
27 response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not
28 exceed five handwritten or typewritten pages in length.)

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) N/A

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ☒ No

If yes, state what court and the case number: Hopefully, an appeal and Habeas Corpus for Clark County District Court Case # C341735 if properly filed

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: District Court Sentencing Attorney Carl Arnold, and Roger Bailey has been appointed 5/27/20

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes No ☒

If yes, specify where and when it is to be served, if you know:

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground ONE: Violation of 14th Amendment - equal protection clause / Due process of law, Violation of NRS 171.174, NRS 171.104, and NRS 171.196, Violation of 4th Amendment and 6th Amendment - The accused has the right to hear and question all witnesses and call witnesses

Supporting FACTS (Tell your story briefly without citing cases or law.): On June 12th, 2019, An arrest was made detaining Daine Anton Crawley for possible involvement in an assault w/ deadly weapon on Las Vegas BLVD, between the Luxor and Excalibur adjacent parking lots. Body Cam footage will show that a multi purpose tool w/ razor blade attached was retrieved from Mr. Crawley's belt. Upon seizure Mr. Crawley was booked for Assault w/ deadly weapon on June 12th, 2019 at 21:00 hours without proper explanation or discovery given until PSI was provided for this case. On June 17th, 2019 Mr. Crawley was brought before the court for an initial arraignment and notified of additional charge "Five days" after arrest exceeding 72 hour hearing. It wasn't until later that day of June 17th, 2019 that Mr. Crawley was formally given the rebooking charge at 16:00 / 4:00 pm according to the temporary custody record from June 17th, 2019 by an officer John D. Ferry, this being hours after the initial court appearance. This new rebook charge for Carry Concealed Weapon was used as leverage to obtain guilty plea agreement even though the Assault w/ deadly weapon charge held no merit. Mr. Crawley was never positively identified by any witnesses, no witnesses were ever brought before the court. The incorrect facts of the police report were used to obtain a habitual sentence of 84 to 240 months. No additional fingerprints, mugshots, etc. were taken which in turn also led to the miscalculation of "Credit Time Served" at time of April 1st, 2020 sentencing. The credited time at sentencing should have been "261 days". The preliminary hearing for both charges were

1 scheduled to be on July 1st, 2019, but were continued until July
2 11th, 2019 without the Defendant Mr. Crawley being brought before
3 the court despite being in custody at CDC during that
4 time. It is also noted on "PSI" that a June 28th, 2019
5 appearance, or "Failure To Appear" is now on Defendants
6 record that he was never brought before the court for
7 nor did he initially even have a June 28th, 2019 court
8 date. This is a procedural tactic used by District Attorney
9 David Stanton to obtain the desired "Guilty Plea agreement
10 or finance the "prosecution witnesses" vacation expenses
11 for their appearance or testimonies in many cases he
12 has prosecuted over the years according to the appeal.org

14 DATED THIS 2nd day of June, 2020

15 I, Daine Anton Crawley, do

16 solemnly swear, under the penalty of perjury, that

17 the above Ground 1 Habeas Corpus is accurate.

18 correct, and true to the best of my knowledge.

19 NRS 171.102 and NRS 208.165.

21 Respectfully submitted.

22 
23 Defendant

24
25 NRS 208.165 A prisoner may execute any instrument by signing his name immediately
26 following a declaration "under penalty of perjury" with the same legal effect as if he had
27 acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in
28 this section, "prisoner" means a person confined in any jail or prison, or any facility for the
detention of juvenile offenders in this state.

(b) Ground TWO: Violation of Amendment 5 and 6, Violation of 8th Amendment, Violation of 7th Amendment in relation to evidentiary hearing to Amend errors within PSI/PSP Score, Violation of NRS 176.145, NRS 213.10988, Blankenship VS. State July 21st, 2016

Supporting FACTS (Tell your story briefly without citing cases or law.): The Defendants Probation Success Probability form used at sentencing for Carrying Concealed Firearm or other Deadly Weapon: To wit Knife/multi purpose tool failed to properly account for defendants mental Health, physical handicap in scoring his ability to be employed under the psych or medical impact Section of the present offense Section of the PSP Score, and Financial Section of Social History. The Defendants sentence was prejudiced because the District Court did not correct the errors in the PSP prior to sentencing despite defendants objections, and lack of contact with court appointed counsel due to restrictions amid the COVID 19/corona Virus pandemic. The difference in score raised the sentencing recommendations significantly. Mr. Crawleys mental disability affected his behavior and was relevant when weighing recidivism probability in reference to Habitual Criminality recommendations. Sentencing forms were required to include considerations for legitimate mental disabilities and physical handicap. The current PSP Categories improperly penalized defendant as a result of a disability. In addition to Mr. Crawleys attempts to correct these errors, the dismissal of Public Defender Erika Ballov for inappropriate representation involving the initial violation of Due process rights and Withdrawal of Guilty Plea from August 2019 through

November 2019 resulted in malicious prosecution. No evidentiary hearing was ever conducted in relation to the withdrawal of guilty plea. Mr. Crawley has suffered from bouts of PTSD / Social Anxiety disorders since 2004, he has not been properly medicated since the June 12th, 2019 arrest. The Defendant believed he was signing a 1 to 5 year probationable sentence. The Supplemental PSI report was brought into question on April 1st 2020, the same issues remain unaddressed. On the 7th page it states issue with contacting Attorney Carl Arnold, and not being able to receive a response. A response from Defendant is stated via email, although Defendant was in custody "260 days" at that point and could not of responded in that manner. If neither the defendant, or Attorney were contacted who then could of possibly given a response. In turn these errors were never corrected or properly addressed. As you may know, PSP'S are Separated into four broad categories. Prior Criminal History, Present Offenses, Social History, and Community Impact. These four Categories include a total of 35 independent considerations. The 35 considerations are independently scored in the PSP, using a separate form to guide the division when assigning points (the Scoring sheet). The points assigned to the 35 considerations are then added to arrive at

an offender overall score or "PSP". When an overall PSP score warrants a recommendation of prison, a raw score is computed consisting of the scores from the considerations in the prior criminal history and present offense categories. The raw score is translated into a sentencing range using the Sentencing Scale - NAC 213.600. In this instance Mr. Crawley was interviewed for case C341735 and case C342881 by the PNP office, only a matter of weeks apart while in custody. However, the social history varies substantially between the two, as well as the pre sentence adjustment section. Most notably under the Attitude/supervision, Attitude/offense, Honesty/cooperation categories of the pre sentence adjustment. Also most importantly the psych or medical impact and weapon categories of the present offense section. The charge is concealed weapon, though -2 points are deducted for brandished on a "victimless" crime, for example. It is believed that these errors would have put Mr. Crawley in the borderline candidate recommendation range if a new PSI would have been ordered as was intended on March 4th, 2020 to be used at April 1st, 2020 rendition of sentencing. It is stated that a

Ground 2 Continuation page 2

Defendant has the right to object to factual or methodological errors in sentencing forms, so long as he or she objects before sentencing and allows the District Court to strike information that is based on impalpable or highly suspect evidence. It is clear that any objections that the defendant has must be resolved prior to sentencing. In this case however, this remains an issue in that the defendant was not given a new PSI interview, or ample time to review the Supplement PSI dated March 24th, 2020 prior to April 1st, 2020 Sentencing. The Supplemental PSI was never reviewed with the defendant by the defense Attorney. Under NRS 207.016 Procedure; 'trial of primary offense; prior convictions; it clearly states that if such a Supplement or amendment is filed the sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing. Mr. Crawley was not given time to review the Supplemental PSI with counsel prior to April 1st, 2020 Sentencing due to restrictions amid the COVID 19/Corona Virus pandemic. Although, prosecution

Ground 2 Continuation page 3

1 retains the right to argue for prison versus probation, the
2 additional 5 to 8 points that Mr. Crawley was penalized
3 would have protected a lower sentencing
4 recommendation. The errors also affect classification
5 and parole eligibility in the Department of Corrections.
6 In conclusion Mr. Crawley's PSI was tainted as a
7 result of the error, and the division failed to
8 contact Attorney Carl Arnold prior to April 1st,
9 2020 sentencing to clarify issue, or give new
10 PSI interview for the defendant. Therefore, the
11 sentencing forms constituted palpable or highly
12 suspect evidence.

13
14 DATED THIS 2nd day of June, 2020

15 I Daine Anton Crawley, do


16 solemnly swear, under the penalty of perjury, that

17 the above Grand 2 Habers Corpus is accurate.

18 correct, and true to the best of my knowledge.

19
20 NRS 171.102 and NRS 208.165.

21 Respectfully submitted.

22 
23 Defendant

24
25 NRS 208.165 A prisoner may execute any instrument by signing his name immediately
26 following a declaration "under penalty of perjury" with the same legal effect as if he had
27 acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in
28 this section, "prisoner" means a person confined in any jail or prison, or any facility for the
detention of juvenile offenders in this state.

1 (c) Ground THREE: Violation of Administrative order 20-06 filed
2 March 18th, 2020 titled in the Administrative matter of Court operations
3 of Criminal matters in response to COVID-19, 5th Amendment violation
4 No person shall be deprived of due process law, or be witness against himself
5 Supporting FACTS (Tell your story briefly without citing cases or law.): Administrative order
6 20-06 filed March 18th, 2020 titled "In the administrative
7 matter of court operations of criminal matters in response
8 to COVID-19" lines 8-17 clearly state "Attorney client
9 Conversations will be facilitated if needed, however
10 attorneys are cautioned that it will be absolutely
11 necessary to prepare clients for guilty pleas, sentencings
12 and probation violations/revocations prior to court."
13 However, in case number C341735 Attorney Carl Arnold
14 was not present at the April 1st, 2020 sentencing
15 hearing. Mr. Crowley's attempts to have PSI/PSP
16 Score issues amended, and a Continuance to discuss
17 matters with Substitute Counsel were denied by
18 both Judge Jacqueline Bluth and District Attorney
19 David Stanton. Restrictions within the Clark County
20 Detention Center involving Attorney/Client privileges
21 left the defendant unable to discuss any related
22 information prior to sentencing due to the COVID-19
23 pandemic. In relation to the March 4th, 2020 Continuance
24 to have new PSI Conducted, as noted in Court transcripts
25 for April 1st, 2020 Sentencing, a new PSI was never
26 Conducted at all and Page 7 of the Supplemental
27 PSI Dated March 24th, 2020 by acting Supervisor
28 M. Leavitt discloses this error. In addition to these

restrictions; Due to the COVID 19/Corona Virus pandemic the defendants acceptance to Drug Court was not granted by Judge Bluth despite being approved for the program for District 18 case number C342881 in which a plea agreement was reached to run that case concurrent with case C341735 and not seek habitual treatment. Entry into the Drug Court program were previously an option or consideration prior to sentencing, as court records will show. It is believed that District Attorney David Stanton never intended to acknowledge the 1405 year probationable plea agreement to begin with at all. Prosecutorial misconduct has been an issue with Mr. David Stanton in past and his anger has led him to be fired from the Reno, Nevada DAs office in 1999. Mr. Stanton has been involved in paying witnesses for testimony from a secret checking account, and has also been arrested for resisting arrest himself. The PSI reflects that the crime is "victimless" under the PSP present offense section, yet Mr. Stanton used the incorrect police report to obtain a "guilty

Ground 3 continuation
page 1

1 plea agreement". This in turn led Mr. Crawley to accept
2 a 1 to 5 year probationable sentence or a recommended
3 12 to 36 month sentence. The lack of adequate counsel
4 throughout case number C341735 led to 84 to
5 240 months in the Department of Corrections.
6 It is stated per the Nevada Revised Statutes, any charges
7 to factual allegations in the Pre Sentence Investigation
8 Report may be ordered by the court within 180 days
9 of the entry of Judgement of Conviction. Please
10 order new "PSI" to amend PSP Score errors for
11 rehabilitation purposes, and Post Conviction relief.

12
13
14 DATED THIS 2nd day of June, 2020

15 I Daine Anton Crawley do

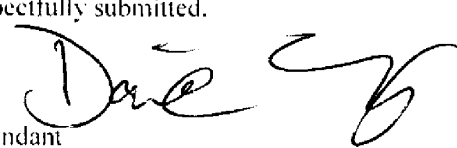
16 solemnly swear, under the penalty of perjury, that

17 the above Ground 3 Habeas Corpus is accurate.

18 correct, and true to the best of my knowledge.

19
20 NRS 171.102 and NRS 208.165.

21 Respectfully submitted.

22 
23 Defendant

24
25 NRS 208.165 A prisoner may execute any instrument by signing his name immediately
26 following a declaration "under penalty of perjury" with the same legal effect as if he had
27 acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in
28 this section, "prisoner" means a person confined in any jail or prison, or any facility for the
detention of juvenile offenders in this state.

Ground 3 Continuation
Page 2

BEFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at High Desert State Prison on the 2nd day of the month of June, 2020

Daine Anton Crawley #1167447

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true.

Daine Anton Crawley #1167447

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

AFFIRMATION (Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding PETITION FOR WRIT OF HABEAS CORPUS filed in District Court Case Number C341735 Does not contain the social security number of any person.

Daine Anton Crawley #1167447

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

CERTIFICATE OF SERVICE BY MAIL

Daine Anton Crawley, hereby certify pursuant to N.R.C.P. 5(b), that on this 2nd day of the month of June, 2020 I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Warden High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070

Attorney General of Nevada
100 North Carson Street
Carson City, Nevada 89701

Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155

Daine Anton Crawley #1167447

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

* Print your name and NDOC back number and sign

Daine Anton Crawley #1167447

-10-

Die CG

Daine Crawley #1167447
#HDSF
P.O. Box 650
Indian Springs, NV 89070

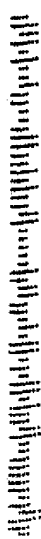
RECEIVED
JUN 04 2020
MAIL ROOM
HIGH DESERT STATE PRISON

1D-28

Clark County District Court Clerk
200 Lewis Avenue
Las Vegas, NV 89155



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D/O 1 JUN

HIGH DESERT STATE PRISON

JUN 04 2020

JUN 08 2020

HIGH DESERT STATE PRISON

UNIT 1 C/D



1 **RSPN**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **JOHN NIMAN**
6 **Deputy District Attorney**
7 **Nevada Bar #14408**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **DAINE ANTON CRAWLEY,**
13 **#7031173**

14 **Defendant.**

CASE NO: A-20-816041-W

C-19-341735-1

DEPT NO: VI

15 **STATE'S RESPONSE TO DEFENDANT'S PETITIONS FOR WRIT OF HABEAS**
16 **CORPUS (POST-CONVICTION)**

17 **DATE OF HEARING: AUGUST 19, 2020**
18 **TIME OF HEARING: 9:30 AM**

19 **COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County**
20 **District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the**
21 **attached Points and Authorities in Response to Defendant's Petitions for Writ of Habeas**
22 **Corpus (Post-Conviction).**

23 **This Response is made and based upon all the papers and pleadings on file herein, the**
24 **attached points and authorities in support hereof, and oral argument at the time of hearing, if**
25 **deemed necessary by this Honorable Court.**

26 **///**

27 **///**

28 **///**

1 **POINTS AND AUTHORITIES**

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.

27 On April 6, 2020, Crawley filed a Notice of Appeal. The Judgment of Conviction
28 ("JOC") was filed on April 7, 2020. Crawley's Case Appeal Statement was filed on April 13,

1 2020. On May 11, 2020, Carl Arnold was appointed as appellate counsel. Crawley's appeal is
2 currently pending under Nevada Supreme Court case number 81011, but no Opening Brief has
3 yet been filed.

4 On June 4, 2020, Crawley filed a Petition for Writ of Habeas Corpus (Post-Conviction)
5 (First Petition) and on June 12, 2020, Crawley filed another Petition for Writ of Habeas Corpus
6 (Post-Conviction) (Second Petition). The State responds as follows.

7 **STATEMENT OF THE FACTS**

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

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

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

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

Presentence Investigation Report, August 27, 2019, at 7-8.

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1 ARGUMENT

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 Further, substantive claims are beyond the scope of habeas and waived. NRS
24 34.724(2)(a); Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001); Franklin v.
25 State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds, Thomas
26 v. State, 115 Nev. 148, 979 P.2d 222 (1999).

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

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

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

1 (b) Actual prejudice to the petitioner.

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

5 Here, the grounds Defendant raises in his First Petition are proper only for a direct
6 appeal, and thereby, waived. Specifically, Defendant presents four (4) grounds to this Court:
7 (1) violation of his due process rights; (2) claims of prosecutorial misconduct; (3) violation of
8 a court administrative order; and (4) allegations of cruel and unusual punishment. First
9 Petition, at 8-11. Defendant does not challenge the validity of a guilty plea and/or raise claims
10 of ineffective assistance of counsel. See generally, Id. Indeed, the issues Defendant does raise
11 in this First Petition are improperly brought before this Court. As such, these substantive
12 claims are proper only on direct appeal and are barred in this Petition.

13 Even still, Defendant does not attempt to demonstrate good cause or prejudice for
14 raising these claims for the first time in the instant proceedings. See First Petition. Thus, such
15 claims should be denied.

16 **II. DEFENDANT'S SECOND PETITION FOR WRIT OF HABEAS CORPUS**
17 **IS SUCCESSIVE AND/OR AN ABUSE OF THE WRIT**

18 The Second Petition was filed eight (8) days after his First Petition is procedurally
19 barred because it is successive. NRS 34.810(2) reads:

20 A second or successive petition *must* be dismissed if the judge or
21 justice determines that it fails to allege new or different grounds
22 for relief and that the prior determination was on the merits or, if
23 new and different grounds are alleged, the judge or justice finds
24 that the failure of the petitioner to assert those grounds in a prior
25 petition constituted an abuse of the writ.

26 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
27 different grounds for relief and the grounds have already been decided on the merits or that
28 allege new or different grounds but a judge or justice finds that the petitioner's failure to assert
those grounds in a prior petition would constitute an abuse of the writ. Second or successive
petitions will only be decided on the merits if the petitioner can show good cause and

1 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

2 The Nevada Supreme Court has stated: "Without such limitations on the availability of
3 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
4 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
5 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
6 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
7 a careful review of the record, successive petitions may be dismissed based solely on the face
8 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
9 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
10 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).
11 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

12 Here, Defendant acknowledges that this is his Second Petition, and it is therefore
13 successive and an abuse of the writ under NRS 34.810(2) and should be denied. Further,
14 Defendant attempts to assert substantive claims that cannot be raised in a petition. Therefore,
15 Defendant's pleadings are successive and subject to dismissal absent a showing of good cause
16 and prejudice. NRS 34.810(2). Defendant does not argue good cause nor prejudice. See
17 generally, Second Petition. Thus, pursuant to statute, Defendant's pleadings "*must be*
18 *dismissed.*" NRS 34.810(2) (emphasis added).

19 III. DEFENDANT'S FAILURE TO RAISE CLAIMS ON DIRECT APPEAL 20 CONSTITUTE WAIVER

21 Defendant's Second Petition additionally presents three (3) issues: (1) violation of his
22 Equal Protect and/or Due Process rights; (2) allegations of errors within his PSI; and, (3)
23 violation of this Court's Administrative Order. Second Petition, at 6-15. None of the claims
24 raised in this Second Petition challenge the voluntariness of Defendant's guilty plea, nor does
25 it allege ineffective assistance of counsel. Therefore, this claim should have been pursued on
26 direct appeal, rather than in a petition. NRS 34.810(1); Franklin, 110 Nev. at 752, 977 P.2d at
27 1059.

1 Defendant does not attempt to argue good cause or prejudice for raising these claims in
2 the instant proceedings. Such an argument would be meritless, as Defendant specifically and
3 unconditionally waived any protentional constitutional defect by entering his guilty plea.
4 Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 431, 683 P.2d 504, 505.

5 Because Defendant waived all constitutional issues prior to the entry of his plea, and
6 because his claim does not challenge the voluntariness of Defendant's plea, these claims must
7 be summarily denied.¹

8 **CONCLUSION**

9 Based on the foregoing the State respectfully requests that Defendant's Petitions for
10 Writ of Habeas Corpus (Post-Conviction) be DENIED.

11 DATED this 16th day of July, 2020.

12 Respectfully submitted,

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

15
16 BY /s/JOHN NIMAN
17 JOHN NIMAN
18 Deputy District Attorney
Nevada Bar #14408

19 ///

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21 ///

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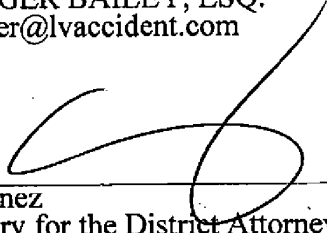
28 ¹ The State asserts that Defendant's claims are waived as to his Petitions. If he raises these claims on direct appeal, we
will respond in our Answering Brief to the appellate court.

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of STATE'S RESPONSE TO DEFENDANT'S
PETITIONS FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) , was made this
28 day of July, 2020, by Electronic Filing to:

ROGER BAILEY, ESQ.
roger@lvaccident.com



C. Jimenez
Secretary for the District Attorney's Office

JH/cmj/L3

1 Daine Crawley ID NO. 1167447

2 SOUTHERN DESERT CORRECTIONAL CTN.
3 20825 COLD CREEK RD.
4 P.O. BOX 208
5 INDIAN SPRINGS, NV 89070

FILED
MAR 18 2021

[Signature]
CLERK OF COURT

4 Clark County District Court
5 200 Lewis Avenue, 3rd Floor
6 Las Vegas, NV 89155

7 The State of Nevada

9 v.

10 Daine Crawley #1167447

11 SDCC PO BOX 208 Indian Springs, NV 89070

CASE NO.: **A-20-816041-W**

DEPT. NO

Dept. 6

DOCKET: _____

13 **SUPPLEMENT:** PETITION for Writ of Habeas Corpus (Post Conviction)
14 This Petition shall supersede any previous Petition, as contact
15 with Court appointed Counsel remains futile.

17 COMES NOW, Defendant Daine A. Crawley, herein above respectfully
18 moves this Honorable Court for an Evidentiary Hearing for this
19 entitled petition of Habeas Corpus (relief)

20
21 This Motion is made and based upon the accompanying Memorandum of Points and
22 Authorities,

23 DATED: this 25th day of February, 2021

24 BY: Daine Crawley 1167447

25 SDCC PO BOX 208 Indian Springs, NV 89070
26 Defendant In Proper Personam

27 RECEIVED

CLERK OF THE COURT

Daine Crawley # 1167447
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

FILED
MAR 18 2021

[Signature]
CLERK OF COURT

PP
DA

IN THE 8th JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF Clark

Daine Anton Crawley # 1167447

Petitioner,

vs.

Director Charles Daniels
Nevada Department of
Corrections, NDOC

Respondent(s).

Case No. **A-20-816041-W**

Dept. No. **Dept. 6**

Docket _____

PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

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 are not in a specific institution of the department 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 and sentence.

1 Failure to raise all grounds I this petition may preclude you from filing future petitions
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of
6 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which
7 you claim your counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one
9 copy must be filed with the clerk of the district court for the county in which the conviction
10 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the
11 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the
12 attorney general's office, and one copy to the district attorney of the county in which you were
13 convicted or to the original prosecutor if you are challenging your original conviction or sentence.
14 Copies must conform in all particulars to the original submitted for filing.

15 PETITION

16 1. Name of institution and county in which you are presently imprisoned or where and who you
17 are presently restrained of your liberty: _____

18 2. Name the location of court which entered the judgment of conviction under attack: _____

19 Clark County District Court 200 Lewis Avenue Las Vegas, NV 89155

20 3. Date of judgment of conviction: April 1st, 2020

21 4. Case number: C341735

22 5. (a) Length of sentence: 84 to 240 months

23 (b) If sentence is death, state any date upon which execution is scheduled: _____

24 6. Are you presently serving a sentence for a conviction other than the conviction under attack in
25 this motion:

26 Yes X No ____ If "Yes", list crime, case number and sentence being served at this time: _____

27 Grand Larceny Case Number C342881 12 to 30 months concurrently

28 7. Nature of offense involved in conviction being challenged: _____

Carrying Concealed Weapon: Trowel: Razor knife or multi purpose
tool

- 1 8. What was your plea? (Check one)
- 2 (a) Not guilty ☐
- 3 (b) Guilty ☒
- 4 (c) Nolo contendere ☐
- 5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea
- 6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: The
- 7 Defendant agreed to a 1 to 5 year probationable recommended 18 to 60 month sentence
- 8 for Case (341735) state would not seek habitual sentence when (342881) Case Signed.
- 9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)
- 10 (a) Jury ☐
- 11 (b) Judge without a jury ☐
- 12 11. Did you testify at trial? Yes ☐ No ☐
- 13 12. Did you appeal from the judgment of conviction?
- 14 Yes ☒ No ☐
- 15 13. If you did appeal, answer the following:
- 16 (a) Name of court: District Court Direct Appeal
- 17 to Nevada Supreme Court
- 18 (b) Case number or citation: 341735
- 19 (c) Result: Still pending
- 20 (d) Date of appeal: April 6th, 2020
- 21 (Attach copy of order or decision, if available).
- 22 14.) If you did not appeal, explain briefly why you did not: _____
- 23 _____
- 24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously
- 25 filed any petitions, applications or motions with respect to this judgment in any court, state or
- 26 federal? Yes ☒ No ☐
- 27
- 28

1 16. If your answer to No 15 was "Yes", give the following information:

2 (a) (1) Name of court: District Court (Clark County)

3 (2) Nature of proceedings: Post conviction Habeas Corpus, Direct Appeal,

4
5 (3) Grounds raised: Due process rights violations NRS 171.174, 171.104,
6 171.196, NRS 176.145, NAC 213.10988 Blankenship VS. State Bradvica
7 VS. State, Knight VS. State violation of 14th and 6th amendments, Carter
8 VS. State, REZIN VS. State, State VS. Sanchez, Ex Post Facto LAW

8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes ___ No X

10 (5) Result: _____

11 (6) Date of result: _____

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each
13 result: _____

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: _____

16 (2) Nature of proceeding: _____

17 (3) Grounds raised: _____

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes ___ No ___

20 (5) Result: _____

21 (6) Date of result: _____

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each
23 result: _____

24 (c) As to any third or subsequent additional application or motions, give the same
25 information as above, list them on a separate sheet and attach.

49

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages
2 you have attached, were not previously presented in any other court, state or federal, list briefly what
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten
6 pages in length). _____
7 _____

8 19. Are you filing this petition more than one (1) year following the filing of the judgment of
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.
10 (You must relate specific facts in response to this question. Your response may be included on
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five
12 handwritten or typewritten pages in length). _____
13 _____
14 _____

15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the
16 judgment under attack?

17 Yes X No _____

18 If "Yes", state what court and the case number: Appeal and Habeas Corpus for
19 Clark County District Court Case Number C34IT35

20 21. Give the name of each attorney who represented you in the proceeding resulting in your
21 conviction and on direct appeal: District Court Sentencing Attorney(s)
22 Carl Arnold and Roger Bailey from CEGA Law group.
23 _____

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the
25 judgment under attack?

26 Yes _____ No X If "Yes", specify where and when it is to be served, if you know: Not
27 in Nevada, though possible violations in the Commonwealth of Virginia
28 _____

(a) Ground ONE: Violation of 14th Amendment - equal protection clause / Due process of law, Violation of NRS 171.174, NRS 171.104, and NRS 171.196, Violation of 4th Amendment and 6th Amendment - The accused has the right to hear and question all witnesses and call witnesses

Supporting FACTS (Tell your story briefly without citing cases or law.): On June 12th, 2019, An arrest was made detaining Daine Anton Crawley for possible involvement in an assault w/ deadly weapon on Las Vegas BLVD, between the Luxor and Excalibur adjacent parking lots. Body Cam footage will show that a multi purpose tool w/ razor blade attached was retrieved from Mr. Crawley's belt. Upon seizure Mr. Crawley was booked for Assault w/ deadly weapon on June 12th, 2019 at 21:01 hours without proper explanation or discovery given until PSI was provided for this case. On June 17th, 2019 Mr. Crawley was brought before the court for an initial arraignment and notified of additional charge "Five days" after arrest exceeding 72 hour hearing. It wasn't until later that day of June 17th, 2019, that Mr. Crawley was formally given the rebooking charge at 16:00 / 4:00 pm according to the temporary Custody record from June 17th, 2019 by an officer John D. Ferry, this being hours after the initial court appearance. This new rebook charge for Carry Concealed Weapon was used as leverage to obtain guilty plea agreement even though the Assault w/ deadly weapon charge held no merit. Mr. Crawley was never positively identified by any witnesses, no witnesses were ever brought before the court. The incorrect facts of the police report were used to obtain a habitual sentence of 84 to 240 months. No additional fingerprints, mugshots, etc. were taken which in turn also led to the miscalculation of "Credit Time Served" at time of April 1st, 2020 sentencing. The credited time at sentencing should have been "261 days". The preliminary hearing for both charges were

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

23. (a) GROUND ONE (Continued) Bradvira vs. State, Knight vs. State, NRS 202.3652, NRS 176.145, 176.153, Section B of AB 236, 176.135 and 176.151, Brady vs. Maryland

23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

Scheduled to be on July 1st, 2019, but were continued until July 11th, 2019 without defendant Crawley being brought before the court, despite defendant Crawley being held in custody at the Clark County Detention Center during that time. It is also noted on "PSI" that a June 28th, 2019 "Failure to appear" is now on the defendants record. It should be noted that Mr. Crawley never had a June 28th, 2019 court date at all. This procedural tactic used by District Attorney David Stanton proved to be detrimental to the sentencing memorandum provided in the supplemental PSI dated March 24th, 2020 at April 1st, 2020 sentencing. At which time, incorrect PSI/PSF information was used to pursue a sentence structure under NRS 207.110, despite agreement of 1 to 5 year probationable sentence, and drug court acceptance. A District Court abuses its discretion in denying a request for an evidentiary hearing if a petitioner has alleged facts that if proven would entitle him to habeas relief, and he did not receive a full and fair opportunity to develop those facts. If the state courts did not afford a petitioner a full

Supporting FACTS:

and fair hearing, then the state Courts' decision was based on an unreasonable determination of the facts. The sentencing Court was not operating in the same capacity, and The Sentencing Judge has discretion to adjudicate an individual under NRS 207.010, as long as the record as a whole indicates that the sentencing Court was not operating under a misconception of law regarding the discretionary nature of a habitual criminal adjudication, and that the Court exercised its discretion. A Brady Violation occurred, in that the evidence was not disclosed, and that evidence would have provided grounds for the defendant to impeach the credibility of the state's witnesses or to bolster the defense's case. The evidence at issue that was withheld by the State (such as Discovery, Body Cam Footage), either intentionally or inadvertently, prejudice ensued, i.e. the evidence was material and provoked a guilty plea agreement that in turn became detrimental to the Sentencing memorandum, thus an illegal sentence of 84 to 240 months under NRS, 207.010 ensued. NRS 202.350 does not provide a method by which a person can obtain a Concealed Weapons permit for a Razor Knife most commonly used in the HVAC Trade that the Defendant has been known to work in since 2004.

(b) Ground TWO: Violation of Amendment 5 and 6, Violation of 8th Amendment, Violation of 7th Amendment in relation to evidentiary hearing to Amend errors within PSI /PSP Score, Violation of NRS 176.145, NRS 213.10988, Blankenship VS. State July 21st, 2016

Supporting FACTS (Tell your story briefly without citing cases or law.): The Defendants Probation Success Probability form used at sentencing for Carrying Concealed Firearm or other Deadly weapon: To wit Knife/multi purpose tool failed to properly account for defendants mental Health /physical handicap in scoring his ability to be employed under the psych or medical impact section of the present offense section of the PSP Score, and Financial section of Social History. The Defendants sentence was prejudiced because the District Court did not correct the errors in the PSP prior to sentencing despite defendants objections, and lack of contact with court appointed counsel due to restrictions amid the COVID 19 /corona Virus pandemic. The difference in score raised the sentencing recommendations significantly. Mr. Crawleys mental disability affected his behavior and was relevant when weighing recidivism probability in reference to Habitual Criminality recommendations. Sentencing forms were required to include considerations for legitimate mental disabilities and physical handicap. The current PSP Categories improperly penalized defendant as a result of a disability. In addition to Mr. Crawleys attempts to correct these errors, the dismissal of Public Defender Erika Ballou for inappropriate representation involving the initial violation of Due process rights and Withdrawal of Guilty Plea from August 2019 through

November 2019 resulted in malicious prosecution. No evidentiary hearing was ever conducted in relation to the withdrawal of guilty plea. Mr. Crawley has suffered from bouts of PTSD / Social Anxiety disorders since 2004, he has not been properly medicated since the June 12th, 2019 arrest. The Defendant believed he was signing a 1 to 5 year probationable sentence. The Supplemental PSI report was brought into question on April 1st 2020, the same issues remain unaddressed. On the 7th page it states issue with contacting Attorney Carl Arnold, and not being able to receive a response. A response from Defendant is stated via email, although Defendant was in custody "260 days" at that point and could not of responded in that manner. If neither the defendant, or Attorney were contacted who then could of possibly given a response. In turn, these errors were never corrected or properly addressed. As you may know, PSP's are Separated into four broad categories. Prior Criminal History, Present Offenses, Social History, and Community Impact. These four categories include a total of 35 independent considerations. The 35 considerations are independently scored in the PSP, using a separate form to guide the division when assigning points (the Scoring sheet). The points assigned to the 35 considerations are then added to arrive at

an offender overall score or "PSP." When an overall PSP score warrants a recommendation of prison, a raw score is computed consisting of the scores from the considerations in the prior criminal history and present offense categories. The raw score is translated into a sentencing range using the Sentencing Scale, NAC 213.600. In this instance Mr. Crawley was interviewed for case C341735 and case C342881 by the PNP office, only a matter of weeks apart while in custody. However, the social history varies substantially between the two, as well as the pre sentence adjustment section. Most notably under the Attitude/supervision, Attitude/offense, Honesty/cooperation categories of the pre sentence adjustment. Also most importantly the psych or medical impact and weapon categories of the present offense section. The charge is concealed weapon, though -2 points are deducted for brandished on a "victimless" crime, for example. It is believed that these errors would have put Mr. Crawley in the borderline candidate recommendation range if a new PSI would have been ordered as was intended on March 4th, 2020 to be used at April 1st, 2020 rendition of sentencing. It is stated that a

Ground 2 Continuation page 2

Defendant has the right to object to factual or methodological errors in sentencing forms, so long as he or she objects before sentencing and allows the District Court to strike information that is based on impalpable or highly suspect evidence. It is clear that any objections that the defendant has must be resolved prior to sentencing. In this case however, this remains an issue in that the defendant was not given a new PSI interview, or ample time to review the Supplemental PSI dated March 24th, 2020 prior to April 1st, 2020 Sentencing. The Supplemental PSI was never reviewed with the defendant by the defense Attorney. Under NRS 207.016 Procedure; 'trial of primary offense; prior convictions; it clearly states that if such a Supplement or amendment is filed the sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing. Mr. Crawley was not given time to review the Supplemental PSI with counsel prior to April 1st, 2020 Sentencing due to restrictions amid the COVID 19/corona Virus pandemic. Although, prosecution

Ground 2 Continuation page 3

23. (b) GROUND TWO: NRS 202.350 Bradvica VS. State
AB 236 section 90, section 105

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
Retains the right to argue for prison versus probation, the additional "5 to 8 points" that Mr. Crawley was penalized would have protected a much lower recommendation. The errors also affects classification and parole eligibility in the department of corrections under AB 236 section 90 and section 105. Section 54 of AB 236 NRS 202.3652 does not list any specific method by which a person could apply for a permit to carry a razor knife / multi purpose tool commonly used in the construction / HVAC trade that Mr. Crawley has been known to work in. In conclusion Mr. Crawley's PSI was tainted as a result of the above error(s), and the division failed to contact Attorney Carl Arnold prior to April 1st, 2020 sentencing to clarify any discrepancies, or give new PSI interview for the defendant. Therefore, the sentencing forms constituted palpable or highly suspect evidence.

1 (c) Ground THREE: Violation of Administrative order 20-06 filed
2 March 18th, 2020 titled in the Administrative matter of court operations
3 of criminal matters in response to COVID 19, 5th Amendment Violation
4 No person shall be deprived of due process law, or be witness against himself

5 Supporting FACTS (Tell your story briefly without citing cases or law.): Administrative order
6 20-06 filed March 18th, 2020 titled "In the administrative
7 matter of court operations of criminal matters in response
8 to COVID-19" lines 8-17 clearly state, "Attorney client
9 conversations will be facilitated if needed, however
10 attorneys are cautioned that it will be absolutely
11 necessary to prepare clients for guilty pleas, sentencing
12 and probation violations/revocations prior to court."
13 However, in case number C341735 Attorney Carl Arnold
14 was not present at the April 1st, 2020 sentencing
15 hearing. Mr. Crawley's attempts to have PSI/PSP
16 Score issues amended, and a Continuance to discuss
17 matters with Substitute counsel were denied by
18 both Judge Jacqueline Bluth and District Attorney
19 David Stanton. Restrictions within the Clark County
20 Detention Center involving Attorney/Client privileges
21 left the defendant unable to discuss any related
22 information prior to sentencing due to the COVID-19
23 pandemic. In relation to the March 4th, 2020 Continuance
24 to have new PSI Conducted, as noted in Court transcripts
25 for April 1st, 2020 Sentencing, a new PSI was never
26 Conducted at all and Page 7 of the Supplemental
27 PSI Dated March 24th, 2020 by acting Supervisor
28 M. Leavitt discloses this error. In addition to these

restrictions; Due to the COVID 19/Corona Virus pandemic the defendant's acceptance to Drug Court was not granted by Judge Bluth despite being approved for the program for District 18 case number C342881 in which a plea agreement was reached to run that case concurrent with case C341735 and not seek habitual treatment. Entry into the Drug Court program were previously an option or consideration prior to sentencing, as court records will show. It is believed that District Attorney David Stanton never intended to acknowledge the 1105 year probationable plea agreement to begin with at all. Prosecutorial misconduct has been an issue with Mr. David Stanton in past and his anger has led him to be fired from the Reno, Nevada DA's office in 1999. Mr. Stanton has been involved in paying witnesses for testimony from a secret checking account, and has also been arrested for resisting arrest himself. The PSI reflects that the crime is "victimless" under the PSP present offense section, yet Mr. Stanton used the incorrect police report to obtain a "guilty

Ground 3 Continuation
page 1

23. (c) GROUND THREE: Brad vica Vs. State, Violation of
Amendment 6, NRS 176.145, 176.153, 176.135 in
relation to the procedure for NRS 207.010 A) NAC 53138
Dressler Vs. State, Carter vs. State, REZIN VS. State

23. (c) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
Plea agreement. This in turn led Mr. Crawley to agree
to a 1 to 5 year probationable Sentence, or a recommended
18 to 60 month Sentence for carrying a concealed Razor
Knife on the defendants belt. The lack of adequate Counsel
throughout Case number C341735 led to 84 to 240 months
in the department of Corrections. It is stated Per the
Nevada Revised Statutes, any changes to factual allegations
in the pre sentence investigation may be ordered by the
within "180" days of the Judgment of Conviction. As
well as Section 13 of AB 236 NRS 176.145
Subsection B states that information concerning behavior
circumstances, and financial condition has been verified
although the violation of the Administrative order, and
amendment 6 directly contradict the Administrative
Matter put in place concerning the Attorney Client
privileges during COVID to verify, or amend any
PSI / PSP information prior to April 1st, 2020 sentencing
It is clear that the substitute Counsel provided was deficient
in performance, and this deficient performance prejudiced
the defense. There is a reasonable probability that, but
for the Counsel's unprofessional / inappropriate errors, the
result of the proceeding would have been much different.

Supporting Facts:

Furthermore, on the prejudice prong, the facts alleged "show that there is a reasonable probability that if counsel had provided effective assistance by objecting to the proffered non-qualifying convictions in The Commonwealth of Virginia under Carter vs. State and REzin vs. state, being that those convictions arose from a Drug Court violation under the same Jurisdiction and Court, as well as the fact that those \$200 dollar grand Larceny charges are Gross/ petit Larceny charges if prosecuted under Nevada State Law Carter vs. State (1963), and should not be counted as "6" Felony convictions. The Sentencing Judge did not have the authority to conduct a sentencing hearing without Attorney Carl Arnold present in open court in order to establish the validity of a "foreign prior conviction". The state must also advise the district court that such charges will be filed in the event of a conviction in order to enable the court to fully apprise a defendant of the potential consequences of self-representation, or in the present matter with this case the withdrawal of counsel and request for an evidentiary hearing in order to withdraw defendants guilty plea. Scott vs. State. Because the maintenance of confidentiality in attorney client communications is vital to the ability of an Attorney to effectively counsel her/his client, interference with this confidentiality impedes the clients First Amendment [sic] right to obtain legal advice." Denius vs. Dinkhp F.3d 944, 954 (7th Cir 2006).

GROUND 4: Carter vs. State, A Foreign Conviction must be a felony if it happened in the State of Nevada.
Murray vs. State, Rezin vs. State, Sanchez vs. State

A Felony Committed by the Defendant under The Commonwealth of Virginia Law. for Grand Larceny And Conspiracy to Commit Grand Larceny Counted as "6 felony counts" on the incorrect PSI/ PSP Score would have been a petit larceny / Gross misdemeanor under Grand Larceny NRS Statutes such as NRS . 205.222 had it occurred in the State of Nevada, and thus defendants "Chesterfield" Convictions for The Commonwealth of Virginia Case numbers CR10F01924, CR10F01926, CR10F01925 that arose from the same "Drug Court" violation. Could not be used to establish his status as a habitual Criminal under this section and neither could the Violations for Chesterfield Case Number CR14F02472 (2 counts), Since the District Attorney Stanton deliberately misled the conception and perception of the Court with the error in Jurisdiction for Case Number CR14F02472. The "PSI" is in error in that all the above cases are under the Court and Judge in Chesterfield County, Virginia Honorable Frederick G. Rockwell, III and "not" Richmond City, VA as stated in the Supplemental PSI provided on April 1st, 2020, prepared on March 24th, 2020. Furthermore, if exemplified copies of the prior felony convictions and Certified fingerprint Cards from the penal institutions where the defendant had been incarcerated or the probation office would have been contacted, this error would not of occurred, and there

Supportive Facts:

Would have been no threat of habitual Criminal proceedings whatsoever. The States initial burden of production shall be satisfied if the State presents Prima Facie evidence of the existence of the prior felony convictions in the Commonwealth of Virginia. The state must present evidence to prove by a preponderance (remains) (unfounded) that the prior conviction was constitutionally obtained (Dressler vs. State). In this case this preponderance remains unfounded in that these prior felonies from The Commonwealth of Virginia are clearly from the same act (Drug Court Violation) transaction or occurrence, and are prosecuted in the same Court and County of Chesterfield, not Richmond City as incorrectly stated by Mr. Stanton. If the record does not raise a presumption of constitutional infirmity, the defendant is none the less free to present evidence tending to rebut the presumption of regularity afforded to a Criminal Conviction. The defendant was not granted the opportunity of a rebuttal with the assistance of Court appointed counsel, or presentation of said evidence due to COVID-19 restrictions concerning attorney-client privileges. Prior to filing of withdrawal of guilty plea the defendant attempted to address errors within PSI / PSP score consistent with Case law for Carter vs. State 1963, as there were also errors within the synopsis of arrest as well as prior convictions regarding constitutionally infirm convictions that were within the PSI. Nevada Law requires a sentencing Court to exercise it's discretion and weigh the appropriate factors for and against

Supporting Facts :

the habitual Criminal statute before adjudicating a person as a habitual Criminal; During this deliberation it may have been necessary ^{to} properly investigate the errors within the PSI, before violating the defendants 14th Amendment due process rights / clause regarding equal protection on April 1st, 2020 at sentencing hearing. District Attorney Stanton used other arbitrary classification tactics including, but not limited to Mental Health and physical handicap credibility of Mr. Crawley as an unjustifiable standard within his argument for habitual Criminal adjudication. In Conclusion, those several convictions may only be utilized as a single "prior conviction", if any for purposes of applying the habitual Criminal statute (Under State vs. Sanchez, State vs. Murray, REZIN vs. state) since the convictions in the Commonwealth of Virginia "do not" constitute a felony of equal value under any grand larceny felony conviction within The State of Nevada. (Under Carter vs. State (1963) and AB 236 in relation to NRS 205.222 grand larceny convictions). This entitled conviction for case C341735 should not of been adjudicated under the habitual offender statute NRS 207.010 and the defendant should not of been sentenced to a term exceeding 18 to 60 months or 60 months by expiration in the Nevada Department of Corrections.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Post Conviction Habeas Corpus
(Title of Document)

filed in District Court Case number C341735

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Daine Crawley
Signature


2/25/21
Date

Daine Crawley
Print Name

Post Conviction Habeas Corpus
Title

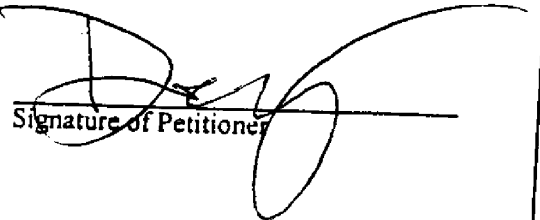
1 WHEREFORE, Dane Crawley, prays that the court grant Post Conviction Habeas
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at Southern Desert Correctional Center
4 on the 25th day of February, 2021

5
6
7 
Signature of Petitioner

8 **VERIFICATION**

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is
11 true and correct of his own personal knowledge, except as to those matters based on information and
12 belief, and to those matters, he believes them to be true.

13
14
15 
Signature of Petitioner

16
17
18 _____
Attorney for Petitioner

CERTIFICATE OF SERVICE BY MAILING

1. Daine Crawley, hereby certify, pursuant to NRCP 5(b), that on this 25th
day of February, 2021, I mailed a true and correct copy of the foregoing, "

Post - Conviction Habeas Corpus"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

District Attorneys office
100 Lewis Avenue
Las Vegas, NV 89155

NDOC / Directors office
5500 Snyder Road
Carson City, NV 89162

Attorney Generals office
100 North Carson Street
Carson City, NV 89101

District Court
100 Lewis Avenue
Las Vegas, NV 89155

CC: FILE

DATED: this 25th day of February, 2021.

Daine Crawley # 1161447

In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Diane Gaudy #1167447
SPC
PO Box 208
Indian Springs, NV 89070

Clark County District Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155

R/S #
2491078



1 PPOW

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 Daine Crawley,

6 Petitioner,

7 vs.

8 Warden Williams, HDSP,

9 Respondent,

Case No: A-20-816041-W
Department 6

**ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS**

10
11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on
12 March 18, 2021. The Court has reviewed the Petition and has determined that a response would assist the
13 Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good
14 cause appearing therefore,

15 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,
16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS
17 34.360 to 34.830, inclusive.

18 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's

19 Calendar on the 26th day of May, 2021, at the hour of

20
21 11:00 a.m.
22 _____ o'clock for further proceedings.

Dated this 18th day of March, 2021

23 

24
25 District Court Judge

kj

26 **168 252 3402 404B**
27 **Jacqueline M. Bluth**
28 **District Court Judge**

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case.

14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
16 known addresses on 3/19/2021

17 Carl Arnold	Cega Law Group Attn: Carl Arnold, Esq 1428 South Jones Boulevard 18 Las Vegas, NV, 89146
----------------	---

19 Steven Wolfson	Juvenile Division - District Attorney's Office 20 601 N Pecos Road 21 Las Vegas, NV, 89101
-------------------	--



1 **RSPN**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **KAREN MISHLER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #13730**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**
10 **Plaintiff,**

11 **-vs-**

12 **DAINE CRAWLEY,**
13 **#7031173**

14 **Defendant.**

CASE NO: A-20-816041-W

C-19-341735-1

DEPT NO: VI

15 **STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL PETITION FOR**
16 **WRIT OF HABEAS CORPUS (POST-CONVICTION)**

17 **DATE OF HEARING: MAY 26, 2021**
18 **TIME OF HEARING: 11:00 AM**

18 **COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County**
19 **District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby**
20 **submits the attached Points and Authorities in Response to Defendant's Supplemental Petition**
21 **for Writ of Habeas Corpus (Post-Conviction).**

22 **This Response is made and based upon all the papers and pleadings on file herein, the**
23 **attached points and authorities in support hereof, and oral argument at the time of hearing, if**
24 **deemed necessary by this Honorable Court.**

25 **//**

26 **//**

27 **//**

1 **POINTS AND AUTHORITIES**

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.

27 ///

28 ///

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’s response now follows.

9 **STATEMENT OF THE FACTS**

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

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

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

25 Presentence Investigation Report (“PSI”), August 27, 2019, at 7-8.

26 **ARGUMENT**

27 **I. DEFENDANT’S CLAIMS PROCEDURALLY BARRED**

28 NRS 34.810(1) reads:

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

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

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

8 ...
9 (2) Raised in a direct appeal or a prior petition for a writ of habeas
10 corpus or postconviction relief.

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

21 Under NRS 34.810,

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

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

27 ...
28 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
v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds,
Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

///

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

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

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

6 (b) Actual prejudice to the petitioner.

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

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

18 Even still Defendant does not attempt to demonstrate good cause or prejudice for
19 raising these claims for the first time in the instant proceedings. See Supplement Petition.
20 Thus, such claims should be denied.

21 **II. DEFENDANT'S SUPPLEMENT PETITION FOR WRIT OF HABEAS**
22 **CORPUS IS SUCCESSIVE AND/OR AN ABUSE OF THE WRIT**

23 The instant Supplement Petition filed eight (8) months after the State filed its
24 Response to his prior Petitions. This Supplement Petition is procedurally barred because it is
25 successive. NRS 34.810(2) reads:

26 A second or successive petition *must* be dismissed if the judge or
27 justice determines that it fails to allege new or different grounds
28 for relief and that the prior determination was on the merits or, if
new and different grounds are alleged, the judge or justice finds

1 that the failure of the petitioner to assert those grounds in a prior
2 petition constituted an abuse of the writ.

3 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
4 different grounds for relief and the grounds have already been decided on the merits or that
5 allege new or different grounds but a judge or justice finds that the petitioner's failure to assert
6 those grounds in a prior petition would constitute an abuse of the writ. Second or successive
7 petitions will only be decided on the merits if the petitioner can show good cause and
8 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

9 The Nevada Supreme Court has stated: "Without such limitations on the availability of
10 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
11 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
12 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
13 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
14 a careful review of the record, successive petitions may be dismissed based solely on the face
15 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
16 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
17 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).
18 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

19 Here, Defendant acknowledges that this is his Supplement Petition. This Supplement
20 Petition reasserts identical claims to his Second Petition, and it is therefore successive and an
21 abuse of the writ under NRS 34.810(2) and should be denied. Further, Defendant attempts to
22 assert substantive claims that cannot be raised in a petition. Therefore, Defendant's pleadings
23 are successive and subject to dismissal absent a showing of good cause and prejudice. NRS
24 34.810(2). Defendant does not argue good cause nor prejudice. See generally, Supplement
25 Petition. Thus, pursuant to statute, Defendant's pleadings "*must be dismissed*." NRS 34.810(2)
26 (emphasis added).

27 ///

28 ///

1 **III. DEFENDANT'S SUPPLEMENTAL PETITION IS A FUGITIVE**
2 **DOCUMENT**

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

5 When a party has appeared by counsel, the party cannot thereafter
6 appear on the party's own behalf in the case without the consent
7 of the court. Counsel who has appeared for any party must
8 represent that party in the case and shall be recognized by the court
and by all parties as having control of the case. The court in its
discretion may hear a party in open court although the party is
represented by counsel.

9 Carl Arnold, Esq., was confirmed as counsel on August 26, 2020. The instant
10 Supplement Petition was filed seven months later on March 18, 2021. Because Petitioner
11 cannot appear on his own behalf after he had already appeared by counsel, the current
12 Supplement Petition should be dismissed as a fugitive document.

13 **CONCLUSION**


14 Based on the foregoing the State respectfully requests that Defendant's Petitions for
15 Writ of Habeas Corpus (Post-Conviction) be DENIED.
16

17 DATED this 16th day of May, 2021.

18 Respectfully submitted,

19 STEVEN B. WOLFSON
20 Clark County District Attorney
Nevada Bar #001565

21 BY

22 
23 KAREN MISHLER
24 Chief Deputy District Attorney
25 Nevada Bar #13730

26
27
28 KM/mah/L3

Stewart Shinn
CLERK OF THE COURT

27

1 Daine Crawley #1167447
2 WSCC

3 P.O. BOX 7007

4 Carson City, NV 89702

5 In The 8th Judicial District Court of
6 The State of Nevada In and For Clark County

7 Daine Crawley #1167447

Case Number: A-20-816041-W

8 petitioner,

Department 6

9 VS.

10 Director Charles Daniels, NDOC

11 Respondent,

12 Motion for production of Response to Writ of Habeas
13 Corpus A-20-816041-W (due 45 days from March 18th, 2021)

14 Comes Now, Petitioner Daine Crawley #1167447, herein above
15 respectfully moves this Honorable Court for an response
16 from Clark County District Attorney, or return in
17 accordance with the provisions of NRS 34.360 to
18 34.830, as the response was ordered 45 days
19 from March 18th, 2021. Please provide copy of timely
20 response, at this time.

21 This motion is made, and based upon the
22 accompanying Memorandum of points, and authorities
23 associated with Grounds #1-4 of Habeas Corpus (post-
24 conviction) Filed on March 18th, 2021.

1 I, Daine A. Crawley, have mailed a copy of original
2 Habeas Corpus (post-conviction) on March 3rd, 2021
3 Brass slip # 2491078) to Clark County Court Clerk
4 and District Attorney's office at 200 Lewis Avenue
5 Las Vegas NV 89155. An additional copy was also
6 forwarded on March 23rd of Habeas Corpus, and order
7 that was electronically filed on 3/18/2021 (in Department
8 6 Judge Jacqueline M. BLUTH District Court Judge) to DA.

9 According to this order a response was due 45
10 days from March 18th 2021; on or about May 3rd 2021
11 would be 45 days; May 26th 2021 would exceed 45 days
12 of due process proceedings for response.

13 In conclusion, The petitioner is now requesting that
14 Case No: (341735 / A-20-816041-W writ of Habeas
15 Corpus be "granted" in relation to an illegal sentence
16 structure under NRS 207.010 according to valid case
17 law (Carter vs. State 79 NEV. 89, 378 P.2d 876; 1963 NEV)
18 Ground(s) 3 and 4 regarding Commonwealth of Virginia Case(s)
19 CR10B01924-01 CR10B01925-01, 02; CR10B01926-01 CR10-
20 B02472-01-02. Equivalent to Gross Misdemeanor convictions
21 in the state of Nevada for NRS 205.275 and NRS 205-
22 222 for "Foreign convictions" (under 207.010 Nevada Revised Statutes)

23 A copy of the response, or new order granting or denying
24 the Habeas Corpus would be greatly appreciated, please forward
25 to Daine Crawley #1167447 WSCC P.O. Box 7007 Carson City, NV
26 89702 when applicable.

27 Respectfully submitted,

28 Page 2

Daine A. Crawley #1167447
WSCC
P.O. Box 7007
Carson City, NV 89702

CERTIFICATE OF SERVICE BY MAILING

I, Daine Crawley, hereby certify, pursuant to NRCP 5(b), that on this 24th
day of May, 2021, I mailed a true and correct copy of the foregoing, "Motion for Response to Habeas Corpus of post-conviction."

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Clerk of Court
Clark County District Court
200 Lewis Avenue
Las Vegas, NV 89155

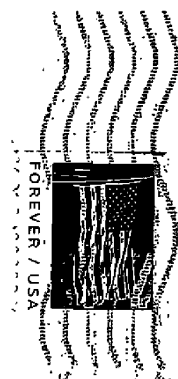
CC:FILE

DATED: this 24th day of May, 2021.

Daine Crawley # 1167447
Warm Springs Correctional Center # po Box 7007
/In Propria Personam
Post Office Box 7007
Carson City, NV 89102
IN FORMA PAUPERIS:

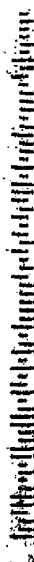
Daine Crawley #1167447
WSEC
PO BOX 7007
CARSON CITY, NV 89702

REMO NV 895
20 MAY 2021 PM 3 T

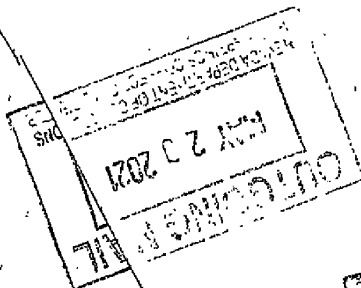


Clark County District Court Clerk
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155

5910136300



STREET MAIL



Clerk of District Court,

A-20-816041-W

J. D. B. 2021

At this time, I Daine A. Crawley am sending "two copies" of my intended appeal of post-conviction Habeas Corpus dated June 16th, 2021. This is my entitled notice of appeal as I wish to have this copy sent (1) to The District Attorney, and (2) Nevada Supreme Court. Contact with Attorney has been futile, and I would like to file this petition on my own behalf to The Nevada Supreme Court at this time since "no response has been received by myself regarding this matter. A response was due on May 26th, 2021 as ordered by Judge Bluth on March 18th, 2021 to no avail.

I do not want to exceed the time in which I may file this appeal of Postconviction Habeas Corpus, as this is my intention, in this moment.

Your cordial response is greatly appreciated.

Respectfully Submitted,

Daine Crawley # 1167447
WSCC

P.O. Box 7007
Carson City, NV 89702

1 Daine Crawley, # 1167447
2 Warm Springs Correctional Center
3 P.O. Box 7007
4 Carson City, Nevada 89702

5 PETITIONER IN PROPER PERSON

6 IN THE 8th (Eighth) JUDICIAL DISTRICT COURT OF THE STATE OF
7 NEVADA IN AND FOR THE COUNTY OF Clark

9 Daine Anton Crawley # 1167447

10 Petitioner,

11 Case No.: A-20-816041-W (Appeal from District Court)
12 Dept. No. VI 6

13 V.

14 Director Charles Daniels of NDOC,

15 Respondent

16
17 **PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)**

18 **(Reverse and Remand)**

19 **INSTRUCTIONS:**

20 (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

21 (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.

22 (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.

23 (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 are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

1 (5) You must include all grounds or claims for relief which you may have
2 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.

3 (6) You must allege specific facts supporting the claims in the petition you file
4 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
5 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
6 ineffective.

7 (7) When the petition is fully completed, the original and one copy must be filed
with the clerk of the state district court for the county in which you were convicted.
8 One copy must be mailed to the respondent, one copy to the Attorney General's Office,
and one copy to the district attorney of the county in which you were convicted or to
9 the original prosecutor if you are challenging your original conviction or sentence.
Copies must conform in all particulars to the original submitted for filing.

10
11 **PETITION**
12

13 1. Name of institution and county in which you are presently
14 imprisoned or where and how you are presently restrained of your
15 liberty: Warm Springs Correctional Center under an illegal sentence
16 Structure of 84-240 months (Foreign Convictions Under 207.010)
17

18 2. Name and location of court which entered the judgment of
19 conviction under attack:
20 Clark County District Court 200 Lewis Avenue Las Vegas, NV 89155
21 (Dept. 6)
22

23 3. Date of judgment of conviction: April 1st, 2020

24 4. Case number: 341735 (A-20-81604(-W))
25

26 5. (a) Length of sentence: 84-240 months
27
28

1 (b) If sentence is death, state any date upon which
2 execution is scheduled: N/A

3
4 6. Are you presently serving a sentence for a conviction
5 other than the conviction under attack in this motion?

6 Yes ☒ _____ No _____

7 If "yes," list crime, case number and sentence being
8 served at this time: Grand Larceny Case Number 0347881 12-30
9 months Concurrently (served)

10 7. Nature of offense involved in conviction being
11 challenged: Carry Concealed Weapon & To Wit: Razor Knife or
12 multipurpose tool.

13
14 8. What was your plea? (check one)

15 (a) Not guilty _____

16 (b) Guilty ☒ _____

17 (c) Guilty but mentally ill _____

18 (d) Nolo contendere _____

19
20 9. If you entered a plea of guilty to one count of an
21 indictment or information, and a plea of not guilty to another
22 count of an indictment or information, or if a plea of guilty was
23 negotiated, give details: The Defendant agreed to a 1 to 5 year probationable
24 sentence (recommended 18 to 60 month sentence) for case # 03411735, and the state
25 would not seek Habitual Sentence when Case # 0347881 is signed (District Attorney Breachard
26 the plea agreement).

27 10. If you were found guilty after a plea of not guilty, was
28 the finding made by: (check one)

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(a) Jury _____

(b) Judge without a jury _____

11. Did you testify at the trial? Yes _____ No _____

12. Did you appeal from the judgment of conviction?

Yes X No _____

13. If you did appeal, answer the following:

(a) Name of court: District Court Direct Appeal to Nevada Supreme Court

(b) Case number or citation: C341735

(c) Result: Still pending decision

(d) Date of result: _____

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes X No _____

16. If your answer to No. 15 was "yes," give the following

(a) (1) Name of court: District Court of Clark County

(2) Nature of proceeding: Post Conviction Habeas Corpus

Direct Appeal

(3) Grounds raised: Breach of Plea Agreement, Due process rights

Violations NRS. 171.174, 171.104, 171.196 NRS 176.145 NAC 213.10988,
Violation of 14th and 6th Amendment under Parler VS State (1963) Case law, Ex post Facto.

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes _____ No X

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition,
application or motion? Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

1 (7) If known, citations of any written opinion or date of
2 orders entered pursuant to such result: _____
3 _____
4 _____

5 (c) As to any third or subsequent additional applications or
6 motions, give the same information as above, list them on a
7 separate sheet and attach.

8 (d) Did you appeal to the highest state or federal court
9 having jurisdiction, the result or action taken on any petition,
10 application or motion?

11 (1) First petition, application or motion?

12 Yes ^{This is my} ~~intended Appeal~~ No _____

13 Citation or date of decision: _____

14 (2) Second petition, application or motion?

15 Yes _____ No _____

16 Citation or date of decision: _____
17

18 (3) Third or subsequent petitions, applications or motions?

19 Yes _____ No _____

20 Citation or date of decision: _____

21 (e) If you did not appeal from the adverse action on any
22 petition, application or motion, explain briefly why you did not.

23 (You must relate specific facts in response to this question.

24 Your response may be included on paper which is 8 1/2 by 11
25 inches attached to the petition. Your response may not exceed
26 five handwritten or typewritten pages in length.)
27
28

1 17. Has any ground being raised in this petition been
2 previously presented to this or any other court by way of
3 petition for habeas corpus, motion, application or any other
4 post-conviction proceeding? If so, identify:

5
6 (a) Which of the grounds is the same: Grand 1-4 are the same
7 as my intent is to use this as Appeal to Nevada Supreme Court, with
8 additional points and Authorities.

9 (b) The proceedings in which these grounds were raised:
10
11

12 (c) Briefly explain why you are again raising these grounds.

13 Because these grounds were not properly presented by My Attorney, as
14 there has been conflicting confirmation as to who my Attorney actually
15 is for the last year, as Court records will show and documentation.

16 (You must relate specific facts in response to this
17 question. Your response may be included on paper which is 8 1/2
18 by 11 inches attached to the petition. Your response may not
19 exceed five handwritten or typewritten pages in length.)
20
21
22

23
24 18. If any of the grounds listed in Nos. 23(a), (b), (c) and
25 (d), or listed on any additional pages you have attached, were
26 not previously presented in any other court, state or federal,
27 list briefly what grounds were not so presented, and give your
28 reasons for not presenting them. (You must relate specific facts

1 in response to this question. Your response may be included on
2 paper which is 8 1/2 by 11 inches attached to the petition. Your
3 response may not exceed five handwritten or typewritten pages in
4 length.)

5 The Grands were presented to Attorney, however it is uncertain if Attorney
6 presented them. Court clerk(s) have given me two different names
7 for possible Attorneys neither of which have responded - Via Mail.

8
9 19. Are you filing this petition more than 1 year following
10 the filing of the judgment of conviction or the filing of a
11 decision on direct appeal? If so, state briefly the reasons for
12 the delay. (You must relate specific facts in response to this
13 question. Your response may be included on paper which is 8 1/2
14 by 11 inches attached to the petition. Your response may not
15 exceed five handwritten or typewritten pages in length.)

16 This is my appeal to Post-Conviction filed on March 18th, 2021 that neither
17 attorney Carl Arnold or Roger Bailey has given me a response to, so
18 I intend to file a timely appeal using this petition to Nevada Supreme Court.

19 20. Do you have any petition or appeal now pending in any
20 court, either state or federal, as to the judgment under attack?
21 Yes _____ No X If yes, state what court and the case number:

22 This should be the appeal from March 18th, 2021 and May 26th,
23 2021 deadline for response filed by Judge Bluth.

24 21. Give the name of each attorney who represented you in
25 the proceeding resulting in your conviction and on direct appeal:

26 Roger Bailey and Carl Arnold

27 22. Do you have any future sentences to serve after you
28 complete the sentence imposed by the judgment under attack?

Yes _____ No X



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

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

December 28, 2020

Attorney: Roger Bailey
Sgro & Roger
c/o Roger C Bailey
720 S 7th St 3rd Fl
Las Vegas NV 89101

Case Number: C-19-341735-1
Department: Department 6

Defendant: Daine Anton Crawley

*Conflicting Information
provided by Court
as to Identity of Attorney
Violation of 6th Amendment*

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: Motion For Production Of Documents

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,
DC Criminal Desk # 7
Deputy Clerk of the Court



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

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
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Court Division Administrator

December 28, 2020

Attorney: Roger Bailey
1428 S. Jones Blvd.
Las Vegas, NV 89146
Case Number: C-19-341735-1
Department: Department 6
Defendant: Daine Anton Crawley

*PK Conflicting Information
(Continued)*

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: Please See Attached Motions

Rule 3.70. Papers which May Not be Filed

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Cordially yours,
DC Criminal Desk # 7
Deputy Clerk of the Court

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 19, 2021

C-19-341735-1 State of Nevada
vs
Daine CrawleyJanuary 19, 2021 03:00 AM Minute Order Re: Defendant's Motion to Withdraw Counsel and
Appoint New Counsel

HEARD BY: Bluth, Jacqueline M. COURTROOM: RJC Courtroom 10C

COURT CLERK: Reed, Keith

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Defendant's Motion to Withdraw Counsel and Appoint New Counsel is hereby DENIED. Defendant requests to remove Roger Bailey, Esq., as appellate counsel and to appoint new counsel to assist with the filing of post-conviction habeas relief and a motion to modify and/or correct illegal sentence. However, Mr. Bailey is not Mr. Crawley's counsel. Carl Arnold, Esq., was appointed as appellate counsel on May 11, 2020. As such, the appointment of Mr. Arnold as appellate counsel still stands.

Conflicting Information
(Cont)

* Still have not contacted (information
provided by Court incorrect)
Who is my Attorney?

Carl Arnold or Roger Bailey
neither one responds

Violation of 6th Amendment,
in relation ^{to} Attorney Client
communications, for Post-Conviction
proceedings and/or Appeal

1 If yes, specify where and when it is to be served, if you know:

2 possible violation of probation in the Commonwealth of Virginia,
3 _____
4 _____

5 23. State concisely every ground on which you claim that you
6 are being held unlawfully. Summarize briefly the facts
7 supporting each ground. If necessary you may attach pages
8 stating additional grounds and facts supporting same.

9 (a) Ground one: Violation of 14th Amendment, Violation of NRS 171.174,
10 NRS 171.104 and NRS 171.196 Violation of 4th and 6th Amendment
11 NRS 202.3652, NRS 176.145, 176.153 section B of AB 236, NRS 176.
12 135 and 176.151. Bradvira vs. state Arnett vs. Jackson 393 F.3d 681
13 686 (6th cir 2005) citing Townsend vs. Burke 334 U.S. 736 68 S.Ct 1252, 92 L Ed. 205 (1948)

14 (b) Ground two: Violation of Amendment 5, 6, 8 and 7 in
15 relation to not being granted an evidentiary hearing to amend errors
16 within PSI/PSP score and/or withdrawal guilty plea, Violation of
17 NRS 176.145, NRS 213.10488, Blankenship vs. state NRS 202.350
18 Bradvira vs. state, AB 236 section 90 and 105

19 (c) Ground three: Violation of Administrative order 20-06 filed
20 March 18th, 2020 titled in the Administrative matter of Court operations of Criminal
21 matters in response to Covid-19, Violation of Amendment 5, Amendment 6
22 NRS 176.145, 176.153, 176.135 in relation to procedure for NRS
23 201.010. (Habitual Criminal proceedings)

24 (d) Ground four: A foreign conviction must be a felony in The
25 State of Nevada to be used to adjudicate Under NRS 201.010.
26 Murray vs. state, Rezin vs. state US vs. McCann 613 F.3d 486, 2010
27 Shepard 125 S.Ct at 1263, JAMES ALBERT CARTER vs. State
28 79 Nev. 89 378 P.2d 876; 1963

Ground 5 (five) : Breach of Plea Agreement, U.S. vs. Miner 544
F.3d 930, 932 (8th Cir. 2008) U.S. vs. Jose Luis Diaz-Jimenez 622
F.3d 692, 2010. U.S. vs. Mondragon 228 F.3d 978, 981
(9th Cir 2000) U.S. vs. Moscahlaudis 868 F.2d 1357, 1361,
1363, (3d Cir. 1989)

Ground _____ : _____

Ground _____ : _____

Ground _____ : _____

Ground _____ : _____

1 (a) Ground ONE: Violation of 14th Amendment - equal protection clause / Due
 2 process of Law, Violation of NRS 171.174, NRS 171.104, and NRS
 3 171.196, Violation of 4th Amendment and 6th Amendment - The
 4 accused has the right to hear and question all witnesses and call witnesses
 5 Supporting FACTS (Tell your story briefly without citing cases or law.): On June 12th, 2019, An
 6 arrest was made detaining Daine Anton Crawley for possible involvement in
 7 an assault w/ deadly weapon on Las Vegas Blvd, between the Luxor and
 8 Excalibur adjacent parking lots. Body Cam Footage will show that a multi
 9 purpose tool/w razor blade attached was retrieved from Mr. Crawley's
 10 belt. Upon seizure Mr. Crawley was booked for Assault w/ deadly weapon
 11 on June 12th, 2019 at 21:00 hours without proper explanation or
 12 discovery given until PSI was provided for this case. On June 17th,
 13 2019 Mr. Crawley was brought before the court for an initial arraignment
 14 and notified of additional charge "Five days" after arrest exceeding
 15 72 hour hearing. It wasn't until later that day of June 17th, 2019 that
 16 Mr. Crawley was formally given the rebooking charge at 16:00 / 4:00pm
 17 according to the temporary Custody record from June 17th, 2019 by an
 18 officer Joshua D. Ferry, this being hours after the initial Court
 19 appearance. This new rebook charge for Carry Concealed Weapon was
 20 used as leverage to obtain guilty plea agreement even though the
 21 Assault w/ deadly weapon charge held no merit. Mr. Crawley was never
 22 positively identified by any witnesses, no witnesses were ever brought
 23 before the Court. The incorrect facts of the police report were used
 24 to obtain a habitual sentence of 84 to 240 months. No additional
 25 fingerprints, mugshots, etc, were taken which in turn also led
 26 to the miscalculation of "Credit Time Served" at time of April
 27 1st, 2020 sentencing. The credited time at sentencing should have
 28 been "261 days". The preliminary hearing for both charges were

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

23. (a) GROUND ONE (Continued) Brad v. State, Knight vs. State, NRS 202.3652, NRS 176.145, 176.153, section B of AB 236, 176.135 and 176.151, Brady vs. Maryland

23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

Scheduled to be on July 1st, 2019, but were continued until July 11th, 2019 without defendant Crawley being brought before the court, despite defendant Crawley being held in custody at the Clark County Detention Center during that time. It is also noted on "PSI" that a June 28th, 2019 "Failure to appear" is now on the defendants record. It should be noted that Mr. Crawley never had a June 28th, 2019 court date at all. This procedural tactic used by District Attorney David Stanton proved to be detrimental to the sentencing memorandum provided in the supplemental PSI dated March 24th, 2020 at April 1st, 2020 sentencing. At which time, incorrect PSI/PSF information was used to pursue a sentence structure under NRS 207.010, despite agreement of 1 to 5 year probationable sentence, and drug court acceptance. A District Court abuses its discretion in denying a request for an evidentiary hearing, if a petitioner has alleged facts that if proven would entitle him to habeas relief, and he did not receive a full and fair opportunity to develop those facts. If the state courts did not afford a petitioner a full

Supporting FACTS:

and fair hearing, then the state Courts' decision was based on an unreasonable determination of the facts. The Sentencing Court was not operating in the same capacity, and The Sentencing Judge has discretion to adjudicate an individual under NRS 207.010, as long as the record as a whole indicates that the sentencing Court was not operating under a misconception of law regarding the discretionary nature of a habitual criminal adjudication, and that the Court exercised its discretion. A Brady Violation occurred, in that the evidence was not disclosed, and that evidence would have provided grounds for the defendant to impeach the credibility of the state's witnesses or to bolster the defense's case. The evidence at issue that was withheld by the State (such as Discovery, Body Cam footage), either intentionally or inadvertently, prejudice ensued, i.e. the evidence was material and provoked a guilty plea agreement that in turn became detrimental to the Sentencing memorandum, thus an illegal sentence of 84 to 240 months under NRS, 207.010 ensued. NRS 202.350 does not provide a method by which a person can obtain a Concealed Weapons permit for a Razor Knife most commonly used in the HVAC Trade that the Defendant has been known to work in since 2004. Evidence that a defendant engaged in conduct more serious than the charged offense can create substantial unfair prejudice. A general

23. (a) GROUND ONE: Arnett vs. Jackson, 393 F.3d 681, 686 (6th cir
2005) Citing Townsend vs. Burke, 334 U.S. 736, 68 S.Ct 1752, 92 L.
Ed. 2d 592 (1972). Tucker, 404 U.S. at 448.

23. (a) SUPPORTING FACTS (tell your story briefly without citing
cases or law): rule that a violation of due process exists when
a sentencing judge relies upon erroneous information. This
erroneous information was detrimental to the sentencing
Memorandum and/or provoked the "plea agreement" that the
District Attorney later breached at April 1st, 2020 sentencing.
To determine whether a sentencing court "relied on" certain
misinformation the Supreme Court has suggested that appellate
courts should analyze whether "the sentence might have been
different in the absence of that information". This clearly
being the case in this present matter, and the reason for
the requested Appeal of previous post-Conviction Habeas Corpus
petition.

PAGE 1 OF 1 ☐ UOF ☒ BODY CAM
 *INCEP# 7031173 ☐ NEW ID
☐ JUVENILE ☐ DNA SAMPLE TAKEN ☒ DNA NOT REC'D
 CO. SGT APPROVAL
☐ REBOOK ☐ ABSENTA ☐ FORM 8 ☐ NDCC ☐ EXT TO LAS VEGAS ☐ LVC ☐ HND ☐ NLV ☐ COURTESY HOLD ☐ DETAINER

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD
 (* DENOTES OFFICER REQUIRED FIELD)

TCR1028888
 *ARREST DATE: 6/12/2019 *ARREST TIME: 21:01
 *EVENT #: LLV190600058903
 *CO-OP#: NO

*NATURAL NAME (NAT, ALIAS, ETC.)		LAST FIRST MIDDLE		TRUE NAME LAST FIRST MIDDLE	
CRAWLEY DAINE ANTON		CRAWLEY DAINE ANTON		CRAWLEY DAINE ANTON	
*HOME ADDRESS (STREET # AND STREET NAME)		BLDG/APT. #		*CITY	
TRANSIENT 3500 W Washington				LAS VEGAS NV	
*DATE OF BIRTH	*RACE	*HAIR	*EYES	*SOCIAL SECURITY #	*CITIZENSHIP
3/21/1985	W	N	BRO	818-07-0540	USA
*LOCATION OF CHARGE (STREET ADDRESS, CITY, STATE, ZIP)		*LOCATION OF ARREST (STREET ADDRESS, CITY, STATE, ZIP)		*ALIAS REGISTRATION #	
3880 LAS VEGAS BLVD S LAS VEGAS NEVADA 89109		3880 LAS VEGAS BLVD S LAS VEGAS NEVADA 89109		88109 RIVERSIDE	
*ARREST TYPE	*COURT JURIS	*WARRANT # / CASE #	*# CHRG	*WCC CODE	*CATEGORY
PC	JC	AF1813X	1	88201	F
*CHARGE LITERAL			*ORD / HRS	*BAIL	*EVENTS / HRS
ASSAULT, W/ID			200.471.28	8000	LLV190600058903
*OTHER JURISDICTION					
PC - PROBABLE CAUSE BS - BONDSMAN SURRENDER BW - BENCH WARRANT AW - ARREST WARRANT RM - REMAND GR - GRAND JURY INDICTMENT					

TIME STAMP AT BOOKING 06/13/19 00:41 DSD RECORDS	*ARRESTING OFFICER SIGNATURE		J CURRY	17371	LAS VEGAS	MA	FIRST APPT DATE: TIME: COURT: <input type="checkbox"/> JUSTICE <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> JUVENILE <input type="checkbox"/> STD BAIL <input type="checkbox"/> O.R. REL. <input type="checkbox"/> PC <input type="checkbox"/> I.A.D. JUDGE: REL REV #8
	*TRANSPORTING OFFICER SIGNATURE		J CURRY	17371	LAS VEGAS	CCAC	
	*EMERGENCY CONTACT		CUSTODY RELEASED TO				
	*RELATIONSHIP		NAME				
J778018 15416 DCC SGT PS	*PHONE NUMBER		POSITION				TIME STAMP AT RELEASED 6/13/19 20:01 DSD RECORDS N/A 15629D
	*EMAIL ADDRESS		AGENCY				
	*RELATIONSHIP		NAME				
	*PHONE NUMBER		POSITION				
*EMAIL ADDRESS		AGENCY				REL REV #8	

06/26/2019 23:59:11

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

PAGE: 02 OF 03

P18052V

CLARK COUNTY DETENTION CENTER

DIRPTRAN

11.2.1.1

PROPERTY TRANSACTION REPORT

ID# : 0007031173

NAME: CRAWLEY, DAINE

ADMIT DATE: 06/13/2019

PROPERTY DETAILS

TYPE	DESCRIPTION	CONDITION	MAKE	SERIAL #	QUANTITY	STATUS
MISC OTHER	A-337	USED			1	Stored
PANTS	BLK	USED			1	Stored
SHOES	GRY	USED			1	Stored
PANTS	BROW	USED			1	Stored
BELT	BLK	USED				
MISC OTHER	TOOLS	USED				
LIGHTER	1 GREEN 1 YELLOW 1 GOLD	USED				
BIRTH CERT	INMATE	USED				
SSN CARD	INMATE	USED				
WALLET	BLK	USED				
MISC OTHER	NV CARD 1425	USED				
GLASSES	BLK FRAME	USED				
CELL PHONE	RED IPHONE	USED				

CRAWLEY, DAINE

ID#: 0007031173

BKG#: 1900032991

LVMPD-PRM-A-A337



934296 PROP

SIGN-OFF BY OFFENDER

DATE: 06/26/2019

OFFICER: 15058 P18052V

I acknowledge that my personal property and/or cash has been properly received and recorded

ID# : 0007031173

NAME: CRAWLEY, DAINE

Unable to sign
Signature of Offender

PROPERTY LOCATION

TYPE	DESCRIPTION	DATE/TIME	ACTION	[FACILITY]	LOCATION	PERSON	AGENCY
MISC OTHER	A-337	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
PANTS	BLK	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
SHOES	GRY	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
PANTS	BROW	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
BELT	BLK	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
MISC OTHER	TOOLS	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
LIGHTER	1 GREEN 1 YELLOW 1 GOLD	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
BIRTH CERT	INMATE	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
SSN CARD	INMATE	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
WALLET	BLK	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		
MISC OTHER	NV CARD 1425	06/26/2019 23:59:09	Stored	LVMPD	LVMPD-PRM-A-A337		

1 (b) Ground TWO: Violation of Amendment 5 and 6, Violation of
2 8th Amendment, Violation of 7th Amendment in relation to
3 evidentiary hearing to Amend errors within PSI/PSP score, Violation of
4 NRS 176.145, NRS 213.10980, Blankenship VS. State July 21st, 2016
5 Supporting FACTS (Tell your story briefly without citing cases or law.): The Defendants Probation
6 Success Probability form used at sentencing for Carrying Concealed
7 Firearm or other Deadly Weapon: To wit Knife/multi purpose tool
8 failed to properly account for defendants mental health/physical
9 handicap in scoring his ability to be employed under the psych
10 or medical impact section of the present offense section
11 of the PSP score, and Financial section of Social History.
12 The Defendants sentence was prejudiced because the
13 District Court did not correct the errors in the PSP prior
14 to sentencing despite defendants objections, and lack of
15 contact with court appointed counsel due to restrictions
16 amid the COVID 19/corona virus pandemic. The difference
17 in score raised the sentencing recommendations significantly.
18 Mr. Crawleys mental disability affected his behavior and
19 was relevant when weighing recidivism probability in
20 reference to Habitual Criminality recommendations. Sentencing
21 forms were required to include considerations for
22 legitimate mental disabilities and physical handicap. The
23 current PSP categories improperly penalized defendant
24 as a result of a disability. In addition to Mr. Crawleys
25 attempts to correct these errors, the dismissal of Public
26 Defender Erika Ballou for inappropriate representation
27 involving the initial violation of Due process rights
28 and Withdrawal of Guilty Plea from August 2019 through

November 2019 resulted in malicious prosecution. No evidentiary hearing was ever conducted in relation to the withdrawal of guilty plea. Mr. Crawley has suffered from bouts of PTSD / Social Anxiety disorders since 2004, he has not been properly medicated since the June 12th, 2019 arrest. The Defendant believed he was signing a 1 to 5 year probationable sentence. The Supplemental PSI report was brought into question on April 1st 2020, the same issues remain unaddressed. On the 7th page it states issue with contacting Attorney Carl Arnold, and not being able to receive a response. A response from Defendant is stated via email, although Defendant was in custody "260 days" at that point and could not of responded in that manner. If neither the defendant, or Attorney were contacted who then could of possibly given a response. In turn, these errors were never corrected or properly addressed. As you may know, PSP's are separated into four broad categories. Prior Criminal History, Present Offenses, Social History, and Community Impact. These four categories include a total of 35 independent considerations. The 35 considerations are independently scored in the PSP, using a separate form to guide the division when assigning points (the Scoring sheet). The points assigned to the 35 considerations are then added to arrive at

an offender overall score or "PSP". When an overall PSP score warrants a recommendation of prison, a raw score is computed consisting of the scores from the considerations in the prior criminal history and present offense categories. The raw score is translated into a sentencing range using the Sentencing Scale - NAC 213.600. In this instance Mr. Crawley was interviewed for case C341735 and case C342881 by the PNP office, only a matter of weeks apart while in custody. However, the social history varies substantially between the two, as well as the pre sentence adjustment section. Most notably under the Attitude/supervision, Attitude/offense, Honesty/cooperation categories of the pre sentence adjustment. Also most importantly the psych or medical impact and weapon categories of the present offense section. The charge is concealed weapon, though -2 points are deducted for brandished on a "victimless" crime, for example. It is believed that these errors would have put Mr. Crawley in the borderline candidate recommendation range if a new PSI would have been ordered as was intended on March 4th, 2020 to be used at April 1st, 2020 rendition of sentencing. It is stated that a

Ground 2 continuation page 2

Defendant has the right to object to factual or methodological errors in sentencing forms, so long as he or she objects before sentencing and allows the District Court to strike information that is based on impalpable or highly suspect evidence. It is clear that any objections that the defendant has must be resolved prior to sentencing. In this case however, this remains an issue in that the defendant was not given a new PSI interview, or ample time to review the Supplement PSI dated March 24th, 2020 prior to April 1st, 2020 Sentencing. The Supplemental PSI was never reviewed with the defendant by the defense Attorney. Under NRS 207.016 Procedure; 'trial of primary offense; prior convictions; it clearly states that if such a Supplement or amendment is filed the sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing. Mr. Crawley was not given time to review the Supplemental PSI with counsel prior to April 1st, 2020 Sentencing due to restrictions amid the COVID 19/Corona Virus pandemic. Although, prosecution

Ground 2 Continuation page 3

23. (b) GROUND TWO: NRS 202.350 Bradvica VS. State
AB 236 section 90; section 105

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
Retains the right to argue for prison versus probation, the additional "5 to 8 points" that Mr. Crawley was penalized would have protected a much lower recommendation. The errors also effects classification and parole eligibility in the department of corrections under AB 236 section 90 and section 105. Section 54 of AB 236 NRS 202.3652 does not list any specific method by which a person could apply for a permit to carry a razor knife/multi purpose tool commonly used in the construction/HVAC trade that Mr. Crawley has been known to work in. In conclusion Mr. Crawley's PSI was tainted as a result of the above error(s), and the division failed to contact Attorney Carl Arnold prior to April 1st, 2020 sentencing to clarify and discrepancies, or give new PSI interview for the defendant. Therefore, the sentencing forms constituted palpable or highly suspect evidence.

1 (c) Ground THREE: Violation of Administrative order 20-06 filed
2 March 18th, 2020 titled in the Administrative matter of court operations
3 of criminal matters in response to COVID-19, 5th Amendment violation
4 No person shall be deprived of due process law, or be witness against himself
5 Supporting FACTS (Tell your story briefly without citing cases or law.): Administrative order
6 20-06 filed March 18th, 2020 titled "In the administrative
7 matter of court operations of criminal matters in response
8 to COVID-19" lines 8-17 clearly state "Attorney client
9 conversations will be facilitated if needed, however
10 attorneys are cautioned that it will be absolutely
11 necessary to prepare clients for guilty pleas, sentencing
12 and probation violations/revocations prior to court."
13 However, in case number C341735 Attorney Carl Arnold
14 was not present at the April 1st, 2020 sentencing
15 hearing. Mr. Crawley's attempts to have PSI/PSP
16 Score issues amended, and a Continuance to discuss
17 matters with Substitute Counsel were denied by
18 both Judge Jacqueline Bluth and District Attorney
19 David Stanton. Restrictions within the Clark County
20 Detention Center involving Attorney/Client privileges
21 left the defendant unable to discuss any related
22 information prior to sentencing due to the COVID-19
23 pandemic. In relation to the March 4th, 2020 Continuance
24 to have new PSI Conducted, as noted in court transcripts
25 for April 1st, 2020 Sentencing, a new PSI was never
26 conducted at all and Page 7 of the supplemental
27 PSI Dated March 24th, 2020 by acting Supervisor
28 M. Leavitt discloses this error. In addition to these

restrictions; Due to the COVID 19/Corona Virus pandemic the defendants acceptance to Drug Court was not granted by Judge Bluth despite being approved for the program for District 18 case number C342001 in which a plea agreement was reached to run that case concurrent with case C341735 and not seek habitual treatment. Entry into the Drug Court program were previously an option or consideration prior to sentencing, as court records will show. It is believed that District Attorney David Stanton never intended to acknowledge the 1 to 5 year probationable plea agreement to begin with at all. Prosecutorial misconduct has been an issue with Mr. David Stanton in past and his anger has led him to be fired from the Reno, Nevada DAs office in 1999. Mr. Stanton has been involved in paying witnesses for testimony from a secret checking account, and has also been arrested for resisting arrest himself. The PSI reflects that the crime is "victimless" under the PSP present offense section, yet Mr. Stanton used the incorrect police report to obtain a "guilty

Ground 3 continuation
page 1

23. (c) GROUND THREE: Brad vica Vs. State, violation of
Amendment 6, NRS 176.145, 176.153, 176.135 in
relation to the procedure for NRS 207.010 A) NAC 53138
Dressler vs. State, Carter vs. State, REZIN vs. State

23. (c) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
Plea agreement". This in turn led Mr. Crawley to agree
to a 1 to 5 year probationable Sentence, or a recommended
18 to 60 month sentence for carrying a concealed Raz or
Knife on the defendants belt. The lack of adequate Counsel
throughout Case number C341735 led to 84 to 240 months
in the department of Corrections. It is stated Per the
Nevada Revised Statutes, any changes to factual allegations
in the pre sentence investigation may be ordered by the Court
within "180" days of the Judgment of Conviction. As
well as Section B of AB 236 NRS 176.145
Subsection B states that information concerning behavior
Circumstances, and financial Condition has been verified
although the violation of the Administrative order, and
amendment 6 directly contradict the Administrative
Matter put in place concerning the Attorney Client
Privileges during COVID to verify, or amend any
PSI / PSP information prior to April 1st, 2020 sentencing
It is clear that the substitute Counsel provided was deficient
in performance, and this deficient performance prejudiced
the defense. There is a reasonable probability that, but
for the Counsel's unprofessional / inappropriate errors, the
result of the proceeding would have been much different.

Supporting Facts:

Furthermore, on the prejudice prong, the facts alleged "show that there is a reasonable probability that if Counsel had provided effective assistance by objecting to the proffered non-qualifying convictions in The Commonwealth of Virginia under Carter vs. State and REZIN vs. State, being that those convictions arose from a Drug Court violation under the same jurisdiction and court, as well as the fact that those \$200 dollar graded Larceny charges are Gross/ Petit Larceny charges, if prosecuted under Nevada State Law Carter vs. State (1963), and should not be counted as "6" Felony convictions. The Sentencing Judge did not have the authority to conduct a sentencing hearing without Attorney Carl Arnold present in open court in order to establish the validity of a "foreign prior conviction". The state must also advise the district court that such charges will be filed in the event of a conviction in order to enable the court to fully apprise a defendant of the potential consequences of self-representation, or in the present matter with this case, the withdrawal of Counsel and request for an evidentiary hearing in order to withdraw defendant's guilty plea. Scott vs. State. Because the maintenance of confidentiality in attorney client communications is vital to the ability of an Attorney to effectively counsel her/his client, interference with this confidentiality impedes the client's First Amendment [sic] right to obtain legal advice." Denius vs. Dinkap F.3d 944, 954 (7th Cir. 2000).

FILED
MAR 18 2020
Clerk of Court

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

IN THE ADMINISTRATIVE MATTER OF
COURT OPERATIONS OF CRIMINAL
MATTERS IN RESPONSE TO COVID-19

Administrative Order: 20-06

Rule 1.30(b) of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada charges the Chief Judge of the Eighth Judicial District Court with various responsibilities, such as supervising the administrative business of the EJDC, ensuring the quality and continuity of its services, supervising its calendar, reassigning cases as convenience or necessity requires, assuring the court's duties are timely and orderly performed, and otherwise facilitating the business of the EJDC.

On March 12, 2020, Governor Steve Sisolak declared a state of emergency in Nevada in response to the recent outbreak of the Coronavirus Disease (COVID-19). The District Court is closely monitoring local developments in response to COVID-19 and will continue to evaluate and implement measures to slow the spread of infection in our community. During this time, it is critical to prevent the spread of any illness among members of the court, counsel, staff, the public, and our valuable community partners. To further prevent the spread of disease, the Centers for Disease Control and Prevention recommends putting distance between yourself and other people. According to the CDC, the virus is spread mainly from people who are in close contact with one another—within about six feet.

///

Therefore, effective Friday, March 20, 2020, all in custody defendants will either appear by video or in the lower level arraignment court. No defendants will be transported to a district court courtroom absent extremely extraordinary circumstances. Also, no defendant who is in isolation pursuant to the Detention Services protocol will be brought for any court appearance. Criminal case hearing times will be as designated on the attachment.

Defense attorneys will have limited ability to discuss things with their clients during court proceedings. Attorney-client conversations will be facilitated if needed; however, attorneys are cautioned that it will be absolutely necessary to prepare clients for guilty pleas, sentencings and probation revocations prior to court.

Attorneys are also encouraged to appear by alternate means. In order to appear by alternate means in a criminal matter, attorneys must e-mail the department at least one judicial day in advance of their appearance and provide the e-mail they intend to use to appear. In case of an emergency that does not allow for one day's notice, attorneys should contact the department.

Only in custody arraignments, release motions, sentencings, probation revocations, and competency hearings will proceed unless a judge determines a different matter needs hearing. Out of custody matters may be decided by the judge or heard at the discretion of the judge if the matter can be heard entirely by alternate means. Otherwise, out of custody matters will be continued.


All in custody specialty court matters for all Criminal Division specialty courts will be heard together in lower level arraignment court on Friday, March 20, 2020, at noon (12:00 p.m.). All status hearings for out of custody participants will be continued for at least 30 days, unless a judge determines that extraordinary circumstances warrant

appearance by alternative means. No jail or community service sanctions will be imposed for program compliance. This does not prevent an arrest of a participant for a probation violation. Specialty court applications may be submitted; however, no new applicants will be accepted to specialty courts at this time.

All three grand juries will be suspended effective at 5:00 p.m. tomorrow, March 19, 2020.

This order shall be reviewed no later than every 30 days and shall continue until modified or rescinded by a subsequent order.

Entered this 18th day of March 2020.


LINDA MARIE BELL
Chief Judge
Eighth Judicial District Court

VIDEO FROM CCDC 3B TO COURTROOMS									
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY					
8:30 - 10:00	T. JONES WIESE	T. JONES	WIESE	--	VILLANI	14A	VILLANI	14A	WIESE
10:15 - 11:45	KEPHART	14B	KEPHART	11A	LEAVITT	16B	LEAVITT	11A	VILLANI
12-1:30	ELLSWORTH	14D	ELLSWORTH	14D	LEAVITT	16D	LEAVITT	14D	LEAVITT
1:45-3:15	ISRAEL	15C	ISRAEL	12A	--	15C	ISRAEL	14D	E. JOHNSON
3:30 - 5:00	DELANEY	15B	DELANEY	11C	ADAIR	15B	DELANEY	11C	ADAIR
LOWER LEVEL ARRAIGNMENT COURT									
8:00 - 10:00	ARRAIGN.	WIESE	BELL	SILVA	T. JONES	BELL	BLUTH	BELL	BLUTH
10:15-11:45	BLUTH	D. JONES	BLUTH	D. JONES	BELL	BLUTH	D. JONES	BELL	BLUTH
12:00-1:30	--	HOLTHUS	--	HOLTHUS	HARDY	SILVA	MILEY	HERNDON	--
1:45 - 3:15	SILVA	HARDY	SILVA	HARDY	HERNDON	(Specialty Counts)	HERNDON	(Homicide/ Arraignment)	--
3:30 - 5:00	MILEY	HERNDON	MILEY	HERNDON	--	--	--	--	--

23. (d) GROUND FOUR: James Albert Carter Vs. State 79 Nev. 89, 378
P.2d 876, 1963 Nev. A foreign conviction under NRS 205.010 must
be a felony if it were to of happened in the State of Nevada U.S. Vs.
McAnn 613 F.3d 486; 2010, Shepard 125 S.Ct. at 1263

23. (d) SUPPORTING FACTS (tell your story briefly without citing cases or law): A felony committed by the Defendant under The law
of The Commonwealth of Virginia for Grand Larceny and Conspiracy to
Commit Grand Larceny that was counted as "6 felony counts" on
the incorrect PSI /PSP score would have been a Gross Misdemeanor
or petit larceny (under NRS 205.222 and NRS 205.275)
had it occurred in the State of Nevada. Not one of those "6"
felony convictions is equivalent at all to any felony Grand Larceny
NRS statute for a \$200 dollar amount involving stolen
property. Thus proving that all of the defendants Chesterfield,
Virginia Circuit Court Case(s) CR10B01924, CR10B01925,
CR10B01926 that arose from the same drug Court Violation(s)
could not be used to establish his status as a habitual offender
under this section. The violations for Chesterfield, VA under
Case Number CR14B02472 (2 counts) are clearly from the same
transaction, as David Stanton deliberately misled the court
with an error in jurisdiction. The "PSI" is in plain error in
that all the above cases are under the court, and Judge in
Chesterfield County, Virginia (Honorable Judge Frederick G.
Rockwell III) and not Richmond City as stated in the
Supplemental PSI provided on April 1st 2020, prepared
on March 24th 2020. Furthermore, if exemplified copies
of the prior felonies and certified fingerprint cards from
the penal institutions where the defendant had been

GROUND 4 : James Albert Carter vs. State T9 Nev. 89, 378
P.2d 876; 1963 Nev. (Continued) Dressler vs. State.

SUPPORTING FACTS (tell your story briefly without citing cases or law): incarcerated or the probation office would have been contacted, this error would not of occurred, and there would have been no threat of habitual criminal proceedings whatsoever. The states initial burden of production shall be satisfied if the state presents Prima Facie evidence of the existence of the prior felony convictions in The Commonwealth of Virginia. However according to the "Carter Case" the state must establish that those "foreign convictions" would have been felonies if committed in The State of Nevada. The State must present evidence to prove by a preponderance that the prior conviction was constitutionally obtained (Dressler vs. State). In this case in point, the preponderance remains unfounded in that these prior felonies from the Commonwealth of Virginia are clearly from the same act (Drug Cart Violation(s)) and are prosecuted in the same Court and County of Chesterfield, not Richmond City as incorrectly stated By Mr. Stanton. If the record does not raise a presumption of regularity afforded to a Criminal Conviction, the defendant is none the less free to present evidence to rebut a conviction Under NRS 207.010. The defendant was clearly not provided adequate counsel, to rebut or present said evidence that is now being brought forth due to Covid-19 restrictions concerning Attorney Client

GROUND 4 : Shepard 125 s.ct at 1263, and
U.S. vs. McCann 673 F.3d 486, 2010.

SUPPORTING FACTS (tell your story briefly without citing cases or law): privileges. Prior to the filing of Withdrawal of guilty plea the defendant attempted to address the errors within PSI/PSP score consistent with case law for Carter vs. State, as this was the basis and reason for accepting a plea agreement to begin with. There were also errors within the synopsis of arrest as well as prior convictions regarding Constitutionally infirm convictions that were within the PSI. Nevada Law requires a sentencing court to exercise its discretion and weigh the appropriate factors for and against the habitual Criminal Statute before adjudicating a person as a habitual Criminal. During this deliberation it may have been necessary to properly investigate the errors within the "PSI" before violating the defendants 14th Amendment rights regarding equal protection on April 1st 2020 at the sentencing hearing, As this was plain error. In Shepard (Shepard 125 s.ct at 1263) the U.S. Supreme Court held that, in cases where the prior conviction was obtained through a guilty plea, the conclusive records that allow a district court to implement this exception to the categorical approach are limited to the terms of the charging document (PSI in this case) the terms of the plea agreement or transcript of colloquy between judge and defendant in which the factual basis for

GROUND 4 : Continued U.S. vs. McCann 613 F.3d 486;
2010

SUPPORTING FACTS (tell your story briefly without citing cases or law): the plea was confirmed by the defendant or to some comparable judicial record of this information. Due to Shepard, a district court may not apply a particular offense level based solely on the pre sentence investigation reports conclusory characterization of a prior conviction. In this instance, the prior conviction does not equal a felony in the state of Nevada and the district Attorney relied on a conclusory characterization of a prior conviction multiple times despite knowing the situs of NRS 205.222 and NRS 205.275 in relation to NRS 207.010 foreign convictions. When a court thus relies on the "PSR" alone it makes an error that is clear and obvious. (U.S. vs. McCann 613 F.3d 486, 2010). District Attorney Stanton used other arbitrary classification tactics including but not limited to Mental Health and physical handicap, credibility of Mr. Crawley as an unjustifiable standard within his argument for habitual Criminal Statute. The District Court relied only on the Pre-sentence Investigation Report without verifying the prior convictions. For this reason, it should be noted that this is an error that seriously affects the fairness, integrity or public reputation of the judicial proceeding. The entitled conviction for case C341735 should not of been adjudicated under the habitual offender statute NRS.

GROUND 4 : (continued)

SUPPORTING FACTS (tell your story briefly without citing cases or law): 207.010 and the defendant should not of been sentenced to a term exceeding 18 to 60 months, or 60 months by expiration for the underlying conviction NRS 202.350 Category C in the Nevada Department of Corrections, a reverse and remand for resentencing would be the most appropriate form of amelioration at this time.

January 6, 2021

Chesterfield County Commonwealth's Attorney
P.O. Box 25
Chesterfield, VA 23832

Re: *Commonwealth v. Daine Crawley*, CR10B01924-01; CR10B01925-01, 02;
CR10B01926-01; CR14B02472-01

To Whom It May Concern:

In connection with the above-referenced matter, the Court received the attached *pro se* filing on January 4, 2021. Judge Rockwell kindly requests that the Commonwealth file a response. Please do not hesitate to contact me with any questions or concerns.

Thank you for your time and attention to this matter.

Very respectfully,

Peyton Siddall, Law Clerk to the
Honorable Frederick G. Rockwell, III

 **FILE COPY**

Commonwealth
of VA Felonies
#1) CR10FO1924
#2)3) CR10FO1925(1,2)
#4) CR10FO1926
#5)6) CR14FO247Z

205.275. Offense involving stolen property: Definition; penalty; restitution; prima facie evidence; determination of value of property.

1. Except as otherwise provided in NRS 501.3765, a person commits an offense involving stolen property if the person, for his or her own gain or to prevent the owner from again possessing the owner's property, buys, receives, possesses or withholds property:

(a) Knowing that it is stolen property; or

(b) Under such circumstances as should have caused a reasonable person to know that it is stolen property.

2. A person who commits an offense involving stolen property in violation of subsection 1:

(a) If the value of the property is less than \$1,200, is guilty of a misdemeanor;

(b) If the value of the property is \$1,200 or more but less than \$5,000, is guilty of a category D felony and shall be punished as provided in NRS 193.130;

(c) If the value of the property is \$5,000 or more but less than \$25,000, is guilty of a category C felony and shall be punished as provided in NRS 193.130;

(d) If the value of the property is \$25,000 or more but less than \$100,000 or if the property is a firearm, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000; or

(e) If the value of the property is \$100,000 or more, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.

3. In addition to any other penalty, the court shall order the person to pay restitution.

4. A person may be prosecuted and convicted pursuant to this section whether or not the principal is or has been prosecuted or convicted.

5. Possession by any person of three or more items of the same or a similar class or type of personal property on which a permanently affixed manufacturer's serial number or manufacturer's identification number has been removed, altered or defaced, is prima facie evidence that the person has violated this section.

6. For the purposes of this section, the value of the property involved shall be deemed to be the highest value attributable to the property by any reasonable standard.

7. As used in this section, "stolen property" means property that has been taken from its owner by larceny, robbery, burglary, embezzlement, theft or any other offense that is a crime against property, whether or not the person who committed the taking is or has been prosecuted or convicted for the offense.

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HISTORY:

C&P 1911, § 383; 1951, p. 29; 1967, p. 502; 1971, p. 925; 1979, pp. 561, 1445; 1989, ch. 626, § 20, p. 1434; 1995, ch. 14, § 3, p. 13; 1995, ch. 443, §§ 144, 376, pp. 1223, 1323; 1997, ch. 150, § 18, p. 344; 1999, ch. 105, § 8, p. 402; 2011, ch. 41, § 21, p. 166; 2013, ch. 231, § 5.6, p. 1003; 2019, ch. 633, § 69, p. 4433.

Amendment Notes

The 2011 amendment, effective October 1, 2011, substituted "\$650" for "\$250" in (2)(a) and (2)(b); and substituted "\$3,500" for "\$2,500" in (2)(b) and (2)(c).

The 2013 amendment, effective May 28, 2013, added "Except as otherwise provided in NRS 501.3765" in the introductory language of (1); and made a related change.

The 2019 amendment by ch. 633, effective July 1, 2020, substituted "\$1,200" for "\$650" in 2(a); added 2(b); redesignated former 2(b) and 2(c) as 2(c) and 2(d); in 2(c), substituted "\$5,000" for "\$650" and "\$25,000" for "\$3,500"; in 2(d), substituted "\$25,000" for "\$3,500" and added "but less than \$100,000"; added 2(e); and made a related change.

NOTES TO DECISIONS

By enacting this section, the Legislature sought to reach and punish those who unlawfully receive or possess stolen property from the initial wrongdoer, and the Supreme Court would not infer an intent to compound the punishment for larceny, robbery, or embezzlement by permitting convictions for the receipt or possession of stolen property against the one who took the property in the first instance. *Point v. State*, 102 Nev. 143, 717 P.2d 38, 1986 Nev. LEXIS 1119 (Nev. 1986).

Larceny and knowingly receiving stolen property are separate and distinct crimes under NRS 205.220 and this section, respectively; thus, where the evidence showed that the defendant had committed both of these crimes, the state could elect to prosecute for either offense. *State v. Sheeley*, 63 Nev. 88, 162 P.2d 96, 1945 Nev. LEXIS 41 (Nev. 1945).

There are three material and essential elements constituting the offense of receiving stolen goods, the absence of any one of which elements will defeat a charge of this character under the law: (1) A person charged must receive or buy the property; (2) he must know that the property was stolen; (3) the purpose or intent to prevent the owner from again possessing the property, or for the receiver's own gain, must also exist. *State v. Pray*, 30 Nev. 206, 94 P. 218, 1908 Nev. LEXIS 14 (1908), overruled in part, *Knight v. State*, 2000 Nev. LEXIS 14, 116 Nev. 140, 993 P.2d 67 (2000) (decision under former similar statute).

Commonwealth Possession
of Schedule I or II
VA Felony # Concentrated cannabis oil
CR14F03523

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

6. The court may grant probation to or suspend the sentence of a person convicted of violating this section.

7. As used in this section:

(a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) "Marijuana" does not include concentrated cannabis.

(c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS 439.986.

Garden Grove, Felony
California 16WF0150

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453.336. Unlawful possession not for purpose of sale: Prohibition; penalties; exception.

1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385 or 453.339, a person who violates this section:

(a) For a first or second offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, is guilty of possession of a controlled substance and shall be punished for a category E felony as provided in NRS 193.130. In accordance with NRS 176.211, the court shall defer judgment upon the consent of the person.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, is guilty of possession of a controlled substance and shall be punished for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) If the controlled substance is listed in schedule I or II and the quantity possessed is 14 grams or more, but less than 28 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 28 grams or more, but less than 200 grams, is guilty of low-level possession of a controlled substance and shall be punished for a category C felony as provided in NRS 193.130.

(d) If the controlled substance is listed in schedule I or II and the quantity possessed is 28 grams or more, but less than 42 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 200 grams or more, is guilty of mid-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(e) If the controlled substance is listed in schedule I or II and the quantity possessed is 42 grams or more, but less than 100 grams, is guilty of high-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than \$50,000.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

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California > 16WF0150
Felony

for hypodermic device
in sallyport of police station Garden Grove
CA

212.160. Furnishing weapon, facsimile, intoxicant or controlled substance to state prisoner; possession of controlled substance, marijuana or marijuana paraphernalia by state prisoner.

1. A person, who is not authorized by law, who knowingly furnishes, attempts to furnish, or aids or assists in furnishing or attempting to furnish to a prisoner confined in an institution of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, any deadly weapon, explosive, a facsimile of a firearm or an explosive, any controlled substance or intoxicating liquor, shall be punished:

(a) Where a deadly weapon, controlled substance, explosive or a facsimile of a firearm or explosive is involved, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

(b) Where an intoxicant is involved, for a gross misdemeanor.

2. Knowingly leaving or causing to be left any deadly weapon, explosive, facsimile of a firearm or explosive, controlled substance or intoxicating liquor where it may be obtained by any prisoner constitutes, within the meaning of this section, the furnishing of the article to the prisoner.

3. A prisoner confined in an institution of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, who possesses a controlled substance without lawful authorization or marijuana or marijuana paraphernalia, regardless of whether the person holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 678C of NRS, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

HISTORY:

1949, p. 340; CL 1929 (1949 Supp.), § 11474.01; 1963, p. 520; 1967, p. 525; 1971, p. 2026; 1977, p. 869; 1979, p. 1458; 1985, p. 596; 1987, ch. 658, § 7, p. 1548; 1995, ch. 443, § 229, p. 1257; 2001 Sp. Sess., ch. 14, § 23, p. 198; 2017, ch. 540, § 58.5, p. 3711; 2019, ch. 595, § 193, p. 3848.

Amendment Notes

The 2017 amendment by ch. 540, effective July 1, 2017, added "or marijuana or marijuana paraphernalia, regardless of whether the person holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS" in (3).

The 2019 amendment by ch. 595, effective July 1, 2020, substituted "pursuant to chapter 678C of NRS" for "pursuant to chapter 453A of NRS" in 3.

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NOTES TO DECISIONS

Cited in:

Glispey v. Sheriff, Carson City, 89 Nev. 221, 510 P.2d 623, 1973 Nev. LEXIS 475 (1973).

Research References and Practice Aids

Review of Selected Nevada Legislation, Crimes, 1985 Pac. L.J. Rev. Nev. Legis. 109.

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GROUND 5 : Breach of plea Agreement Violation of 5th and 14th
Amendment regarding equal protection, US. VS. Mondragon 228 F.3d
978, 981 (9th cir 2000) US. VS. Moschilaidis 868 F.2d 1357
1361, 1363 (3d cir 1989)

SUPPORTING FACTS (tell your story briefly without citing cases or law): A plea agreement was reached for Case C341735, In that agreement a term of 18 to 60 months imprisonment or probation were to be argued by the District Attorney at Sentencing. A recommended 18 to 60 months was determined by the PNP office prior to defendants attempt to address issues within PSI/ PSP Score. It was stated By District 18 Judge Holtz that Case C347881 plea agreement (for 12 to 30 months) would not seek habitual sentence structure and that case would not have a negative impact on the plea agreement previously reached for Case C341735 when signed (in open Court). However, despite not seeking habitual for Case C347881 the District Attorney Stanton sought habitual adjudication for Case C341735, the result being 84 to 240 months. Issues concerning the interpretation and enforcement of a plea agreement are reviewed de novo. When a guilty plea is induced by an agreement, the government must abide by its terms when the offense level is part of the inducement or consideration for pleading guilty, the government breaches a plea agreement by advocating a higher offense level than that specified in the agreement. The underlying charge was Carry Concealed Weapon "to wit": Razor Knife, though now it reads as if a Firearm was involved in addition to the breach. As in this case where the rights in the plea agreement relate to sentencing the

GROUND 5 : (Continued) Breach of plea agreement
US vs. Miner 544 F.3d 930, 932 (8th Cir 2008)

SUPPORTING FACTS (tell your story briefly without citing cases or law): defendant has clearly established and shown that his sentence is affected by the breach. Mr. Crawley has shown favorably beyond a reasonable probability that but for the error(s) in PSI he would have received a more favorable sentence. The district court abuses its discretion and imposes an unreasonable sentence when it fails to consider a relevant and significant factor, gives weight significantly to an irrelevant or improper factor, or considers the appropriate factors but commits a clear error of judgment in weighing those factors. In this instance, each of the three elements of the plain error test are palpably satisfied in the defendant's favor. A court in its discretion should grant relief as this error seriously affects the fairness, integrity, or public reputation of judicial proceedings. U.S. vs. Miner 544 F.3d 930, 932 (8th Cir. 2008) US vs. Jose Luis Diaz Jimenez 622 F.3d 692, 2010. A guilty plea must be voluntary and knowing and if it was induced by promises, the essence of those promises must in some way be known. As in this case C341735, the transcripts (that still have not been provided) disclose the avowal and colloquy previously made by the District Attorney prior to sentencing, as well as Public Defender from July 2019 through November 2019 that had become the basis of the withdrawal of guilty plea.

GROUND 5: Breach of plea agreement.
 Violation of Amendment 14 and 5, Sheppard vs. Rees 909
 F.2d 1234, 1990

SUPPORTING FACTS (tell your story briefly without citing cases or law): that was not presented by way of evidentiary hearing. In the sentencing phase of the criminal justice process, the adjudicative element inherent in accepting a plea of guilty, must be attended by safeguards to insure the defendant what is reasonably due in the circumstances. Those circumstances will vary, but a constant factor is that when a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can said to be in part of the inducement or consideration, such promise must be fulfilled. The inadvertence of the breach does not "lessen its impact" and even absent prejudice at sentencing, the interests of justice and appropriate recognition of the duties of the prosecution in relation to promises made in the negotiation of pleas of guilty (By public Defender Ballou) will be best served by remanding the case to the state courts for further consideration. In Nevada, a defendant sentenced to confinement must be sentenced to both a minimum and maximum sentence under the provisions of the Crime Committed. The plea agreement was for a probationable 1 to 5 year sentence under NRS 202.350 (Carry concealed weapon without permit (NOC 51459)) the result was 84 to 240 months under an erroneous sentence structure despite reaching the agreement and defendant

GROUND 5 : Breach of plea agreement
Violation of 14th Amendment, Dalton vs. Battaglia 402
F.3d 129, 2005

SUPPORTING FACTS (tell your story briefly without citing cases or law): not being able to withdraw his guilty plea prior to sentencing. When a prosecutor breaches a plea agreement, he or she violates the defendant's due process rights by implicating the consideration and voluntariness upon which that plea was based. A defendant's constitutional rights are violated when a prosecutor reneges on the consideration underlying the defendant's plea of guilty. Especially, when the prosecutor uses palpable or highly suspect information to increase the sentence structure. The doctrine that the government must adhere to its bargain in the plea agreement is so fundamental that even though the government's breach is inadvertent and the breach may or may not have influenced the judge in sentence imposed, due process and equity require that sentence to be vacated. The errors within the Crawley case are to be treated as akin to structural defects and are not susceptible of harmless error analysis on this prong. U.S. vs. Mondragon 228 F.3d 978, 981 (9th Cir 2000) U.S. vs. Moscahaidis 868 F.2d 1357, 1361, 1363 (3d Cir 1989). Thus, if a defendant was unaware of his eligibility for an extended term sentence when he pleaded guilty, it would be an unreasonable application of any court precedent by the state courts to find that his plea was knowing and voluntary.

#5

C-19-342881-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 14, 2019

C-19-342881-1 State of Nevada
vs
Daine Crawley

November 14, 2019 09:00 AM Sentencing

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Daine Crawley

Defendant

Daniel R. Jenkins

Attorney for Defendant

JOURNAL ENTRIES

Upon Court's inquiry, Mr. Jenkins noted Deft. still had not been sentenced in front of Judge Bluth; additionally, Mr. Jenkins was waiting to hear if Deft. was accepted into Drug Court. Mr. Jenkins requested that Deft. released to House Arrest for a needed surgery. Court noted it would continue the instant matter due to agreeing to trail Deft.'s other case; however, it would not release Deft. due to his record. Statements by Deft. requesting an own recognizance release. Court advised Deft. there was no own recognizance Motion before the Court; however, he could put it in writing and submit to the State. Following colloquy, Mr. Jenkins requested that another pre-sentence investigation (PSI) report be ordered for the instant case, and the matter be continued for 30 to 45 days. CONFERENCE AT BENCH. Colloquy between parties regarding previous prison terms. Statements by Deft. Court noted it would not sent file back to Parole and Probation. Following colloquy, COURT ORDERED, matter CONTINUED.

CUSTODY

12/12/19 9:00 AM CONTINUED: SENTENCING

Judge Did not order new
"PSI" because she agreed that
"PSI" would not be used against
me to obtain habitual sentence
this was a 1 to 5 year probationable
sentence to run - concurrent with case
C341735, at this time I was unaware
that "Notice" was already filed for
habitual in other case C341735, and
was under impression that Drug Court was option

Printed Date: 11/19/2019

Page 1 of 1

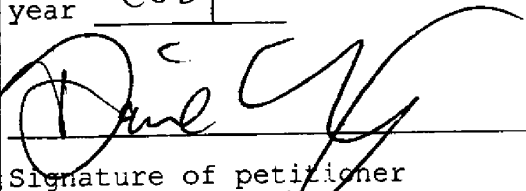
Minutes Date:

November 14, 2019

Prepared by: Dara Yorke

1 WHEREFORE, petitioner prays that the court grant petitioner
2 relief to which he may be entitled in this proceeding.

3
4 EXECUTED at Warm Springs Correctional Center
5 on the 16th day of the month of June of the
6 year 2021

7 
8
9 Signature of petitioner

10 Daine Crawley # 1167447
11 WSEC P.O. Box 7007
12 Carson City, NV 89702
13 Address

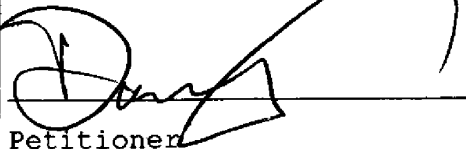
14
15 Signature of attorney (if any)

16
17 Attorney for petitioner

18
19
20
21 Address

1
2
3 **VERIFICATION**

4 Under penalty of perjury, the undersigned declares that he
5 is the petitioner named in the foregoing petition and knows the
6 contents thereof; that the pleading is true of his own knowledge,
7 except as to those matters stated on information and belief, and
8 as to such matters he believes them to be true.

9 
10 _____
11 Petitioner

12 _____
13 Attorney for petitioner
14
15
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28

CERTIFICATE OF SERVICE BY MAIL

I, Daine Anton Crawley, hereby certify pursuant to
N.R.C.P. 5(b), that on this _____ day of the month of _____
of the year _____, I mailed a true and correct copy of the
foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Director Daniels of NDOC
Warm Springs Correctional Center

Respondent prison or jail official

P.O. Box 7007
Carson City, NV 89702

Address

Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701-4717

Steve Wolfson (Clark County)
District Attorney of County of Conviction
200 Lewis Avenue
Las Vegas, NV 89155

Address

[Signature]
Signature of Petitioner

P.O. Box 7007
Warm Springs Correctional Center
Carson City, Nevada 89702

AFFIRMATION
PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding

Post-conviction Habeas Corpus (Appeal to Supreme Court of Nevada)
(Title of Document)

Filed in District Court Case number C341735 (A-20-816041-W)



Does not contain the social security number of any person.

-OR-



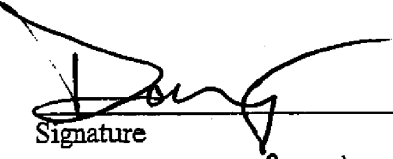
Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.


Signature

Daine A. Crawley
Print name

Post-Conviction Habeas Corpus
Title

Brass slip # 2555320

June 16th, 2021
Date

Daine Cawley 1167447
WSEC
P.O. Box 7007
Carson City, NV 89702

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1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 DAINÉ ANTON CRAWLEY,

11 Plaintiff(s),

12 vs.

13 WARDEN WILLIAMS, HIGH DESERT STATE
14 PRISON,

15 Defendant(s),

Case No: A-20-816041-W

Dept No: VI

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Daine Crawley

20 2. Judge: Jacqueline M. Bluth

21 3. Appellant(s): Daine Crawley

22 Counsel:

23 Daine Crawley #1167447
24 P.O. Box 7007
25 Carson City, NV 89702

26 4. Respondent (s): Warden Williams, High Desert State Prison

27 Counsel:

28 Steven B. Wolfson, District Attorney
200 Lewis Ave.

Las Vegas, NV 89155-2212

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A

***Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: Yes,
Date Application(s) filed: June 4, 2020

9. Date Commenced in District Court: June 4, 2020

10. Brief Description of the Nature of the Action: Civil Writ

Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 28 day of June 2021.

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: Daine Crawley

Daine A. Crawley # 1167447
WSCC
P.O. BOX 7007
Carson City, NV 89702

Electronically Filed
07/08/2021

Heather J. Hemin
CLERK OF THE COURT

27

In The 8th Judicial District Court of The
State of Nevada In and For The County of Clark

State of Nevada
Plaintiff,

Case NO:
A-20-816041-W

VS.

Daine Crawley # 1167447

Motion To Withdraw of Counsel

Comes Now, Defendant Daine Anton Crawley, proceeding in proper person moves this Honorable Court for an order granting him permission to withdraw his present counsel of record in the proceeding action, namely,

Carl Arnold and Roger Bailey of CE6A Law Group

This motion is made and based on all papers and pleadings on file with the clerk of the court which are hereby incorporated by this reference, the points and authorities herein, and attached Affidavit of Defendant.

Dated: This 21st day of June 2021

By: Daine Anton Crawley # 1167447
In propria personam

RECEIVED

JUL -6 2021

CLERK OF THE COURT

At the Defendant, Daine A. Crawley # 1167447 request
please withdraw Attorney Carl Arnold Esq. as
counsel. As stated by Mr. Arnold on Telephone (at 8:25
AM) on June 24th, 2021 "he does not represent individuals
on Habeas corpus petitions". It is uncertain why the court
has continued to provide ineffective assistance of counsel
throughout Case Number C341735 (A-20-816041-W). Conflicting
information has been provided many times starting on
May 27th, 2020 as to who my attorney actually is. At
this time, I am citing "ineffective Assistance" of counsel
for failing to present valid case law regarding "foreign
convictions" under NRS 207.010 Carter vs. State, 1983.
Mr. Arnold did not properly disclose the information
within my Habeas Corpus dated March 18th, 2021 to the
Nevada Supreme Court respond to phone calls, or
mail in a timely matter present grounds # 1-4 on Direct Appeal.

Please dismiss Mr. Arnold and any other representative
within The CEBA Law Group, as counsel at this time.
Transcripts have not been forwarded so please order
the production of all documents. Including my transcripts
at this time in their entirety. d

File subsequent Habeas Corpus accordingly as clear
and plain error has occurred in failing to disclose the
identity of Defendants Attorney and/or the fact that
Mr. Arnold does not represent petitioners for Habeas relief.

Respectfully Submitted,

Daine Crawley # 1167447

Page —

P.O. Box 7007
Carson City, NV 89702

1 **POINTS AND AUTHORITIES**

2 NRS 7.055 states in pertinent part:

- 3 1. An attorney who has been discharged by his client shall upon demand and payment of the fee
4 due from the client, immediately deliver to the client all papers, documents, pleadings and items
of tangible personal property which belong to or were prepared for that client (transcripts)
- 5 2. . . If the court finds that an attorney has, without just cause, refused or neglected to obey its
6 order given under this section, the court may, after notice and fine or imprison him until the
7 contempt purged. If the court finds that the attorney has, without just cause, withheld the
client's papers, documents, pleadings, or other property, the attorney is liable for costs and
attorney's fees.

8 Counsel in the above-entitled case was court-appointed due to Defendant's indigence. Defendant
9 does not owe-counsel any fees.

10 **WHEREFORE**, Defendant prays this Honorable Court, Grant his Motion to Withdraw Counsel
11 and that counsel deliver to Defendant all papers, documents, pleadings, discovery and any other
12 tangible property which belong to or were prepared for the Defendant to allow Defendant the proper
13 assistance that is needed to insure that justice is served.

14 ^{24th}
15 **DATED:** this 24th day of June, 2024

16
17 Respectfully submitted,

18
19 BY: Daine Anton Crawley 1167447

20 /In Propria Personam

21 ~~Barbara A. Crawley~~
22 ~~Metropolitan~~

23 WSCC

24 P.O. BOX 7007
25 Carson City, NV 89702
26
27
28

NAME: Daine Anton Crawley # 1167447
~~HIGH DESERT STATE PRISON~~ ~~WCC~~ WCC
~~P.O. BOX 650~~ ~~INDIAN SPRINGS, NEVADA 89018~~ P.O. BOX 7007
Carson City, NV 89702

DATE: June 24th, 2021

TO: ~~James Arnold~~ Carl Arnold, Esq.
(Address formerly known as)
1428 S. Jones BLVD.
Las Vegas, NV 89146

SUBJECT: TERMINATION OF COUNSEL/TRANSFER OF RECORDS

CASE NO.: C341735 (A-20-816041-W)

DEPT. NO.: VI

CASE NAME: Post conviction Habeas Corpus

Please be advised that from this date forward, your authority as Attorney of Record in the above-stated action is hereby terminated. All of the professional relations of Attorney and Client do hereby cease.

Please enter your withdrawal from this action with the Court immediately.

Pursuant to NRS 7.055, I respectfully request that you deliver to me, forthwith, all documents, papers, pleadings and tangible personal property that is in your possession that relates to the above-named action.

Your prompt attention to this request is genuinely appreciated.

Respectfully,

Daine

////

////

////

Daine Crawley #1167447
WSCC
PO BOX 7007
Carson City, NV 89702

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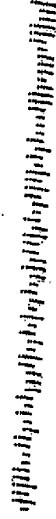
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07/08/2021

Heather L. Lamin
CLERK OF THE COURT

Daine Crawley # 1167447

Defendant/ In Propria Personam

~~Richard A. Arnold Esq.~~
~~1428 S. Jones Blvd.~~
~~Las Vegas, NV 89146~~

WSCC

P.O. Box 7007

Carson City, NV 89702

IN THE 9th JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF Clark

State of Nevada

Plaintiff,

vs.

Daine Crawley # 1167447

Defendant.

Case No. C341735 (A-20-816041-W)

Dept No. VI

Docket _____

**MOTION FOR PRODUCTION OF DOCUMENTS,
PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT**

Date of Hearing: _____

Time of Hearing: _____

"ORAL ARGUMENT REQUESTED, Yes X No ____"

COMES NOW, Defendant, Daine A. Crawley, proceeding in proper person,

hereby moves this Honorable Court for its ORDER for the production of all documents, papers,
pleadings and tangible property in the possession of: Carl Arnold Esq.

CEGA Law Group 1428 S. Jones BLVD, Las Vegas, NV 89146

This Motion is made and based upon all papers and pleadings on file with the Clerk of the Court
which are hereby incorporated by this reference, the Points and Authorities herein, and attached
Affidavit of Defendant.

DATED: this 24th day of June, 2021.

BY:

Daine Crawley # 1167447

Defendant/In Propria Personam

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JUL 06 2021

CLERK OF THE COURT

1 **POINTS AND AUTHORITIES**

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

3 "An attorney who has been discharged by his client shall, upon demand and payment of the fee due from
4 the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property
which belong to or were prepared for that client."

5 As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s)
6 of record, were appointed by the Court to represent the defendant, who was an indigent, in Case
7 Number, C341735 in Department No. VI.

8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and
9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by
12 a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers,
Documents, pleadings and other property."

13 In numerous cases throughout this great land, the courts have held attorneys to a high degree of
14 professional responsibility and integrity. This carried from the time of hiring to and through the
15 attorney's termination of employment.

16 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a
17 "... prompt accounting of all his client's. . . property in his possession." This is echoed in Canon 2
18 of the Code of Professional Responsibility of the American Bar Association, which states in pertinent
19 part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all
20 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the
21 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply
22 with applicable laws on the subject.

23 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,
24 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney
25 refusing to deliver to a former client his documents after being requested to do so by the client. The
26 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the
27 attorney censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce
6 and deliver to the Defendant all documents and personal property in his/their possession belonging to
7 him or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers.
8 The attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada
9 Supreme Court Rules 173, 176 and 203.

10 24th June 21
11 DATED: this ~~24th~~ day of ~~June~~ 20~~20~~

12
13 BY: Daine Arden Crawley #1167447
14 Defendant/In Propria Personam
15
16
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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Transcripts / Tangible Documents Motion
(Title of Document)

filed in District Court Case number C 341735

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

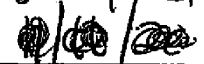
A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.


Signature

6/24/21

Date

Daine A. Crawley
Print Name

Produce Documents
Title

CERTIFICATE OF SERVICE BY MAILING

I, Daine Anton Crawley, hereby certify, pursuant to NRCP 5(b), that on this 24th day of June, 2021, I mailed a true and correct copy of the foregoing, "Transcripts / Tangible documents" by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

200 Lewis Avenue
Las Vegas, NV 89155
Clark County District Court
Clerk of Court

CC: FILE

DATED: this 24th day of June, 2021

Daine Crawley # 1167447

/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

REF: NAT
CONFIDENTIAL

Clerk of District Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155

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DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

Plaintiff

vs.

Daine Anton Crawley #1167447
Defendant

A-20-816041-W
Dept. VI

Case No. C341735

Dept. No. VI

Docket

ORDER

Upon reading the Motion of the Defendant, Daine A. Crawley, requesting production of all documents, papers, pleadings and tangible property, and having determined that the movant has demonstrated Good Cause Appearing,

IT IS HEREBY ORDERED that Defendant's Motion for the Production of Documents, Papers, Pleadings and Tangible Property is GRANTED.

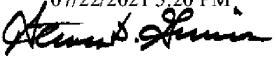
IT IS HEREBY FURTHER ORDERED that the Clerk of the Court is directed to prepare all Documents Papers, Pleadings, and Tangible Property to the Defendant at the following address:

Transcripts and file folders Corpus from June 19th 2020 for
Daine Anton Crawley #1167447 SDCC P.O. BOX 208 89070

24th June 21
DATED and DONE this 24th day of June 2020

DISTRICT COURT JUDGE

RECEIVED
JUL 06 2021
CLERK OF THE COURT


CLERK OF THE COURT

1 **FCL**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **KAREN MISHLER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #13730**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

9 **THE STATE OF NEVADA,**
10 **Plaintiff,**

11 **-vs-**

12 **DAINE CRAWLEY,**
13 **#7031173**

14 **Defendant.**

CASE NO: A-20-816041-W

C-19-341735-1

DEPT NO: VI

15 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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

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

24 //

25 //

26 //

27 //

28 //

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.

27 //

28 //

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.

//

//

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

(b) Actual prejudice to the petitioner.

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

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

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

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

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

27 When a party has appeared by counsel, the party cannot thereafter
28 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
25 PO BOX 650
INDIAN SPRINGS, NV, 89070

26 BY 
27 Secretary for the District Attorney's Office

28 KM/mah/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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



1 NEFF

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 DAINE CRAWLEY,

6 Petitioner,

Case No: A-20-816041-W

Dept No: VI

7 vs.

8 WARDEN WILLIAMS, HDSP,

9 Respondent,

NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

10
11 PLEASE TAKE NOTICE that on July 22, 2021, the court entered a decision or order in this matter, a true
12 and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
to you. This notice was mailed on July 26, 2021.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 26 day of July 2021, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

22 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23
24 ☒ The United States mail addressed as follows:

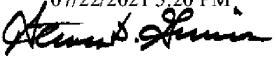
25 Daine Crawley # 1167447
P.O. Box 7007
Carson City, NV 89702

Carl E. Arnold, Esq.
1428 S. Jones Blvd.
Las Vegas, NV 89146

Roger Bailey, Esq.
1428 S. Jones Blvd.
Las Vegas, NV 89146

26
27 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

1 **FCL**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **KAREN MISHLER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #13730**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DAINÉ CRAWLEY,
13 #7031173

14 Defendant.

CASE NO: A-20-816041-W

C-19-341735-1

DEPT NO: VI

15 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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

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

24 //

25 //

26 //

27 //

28 //

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.

27 //

28 //

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.

//

//

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

(b) Actual prejudice to the petitioner.

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

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

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

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

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

27 When a party has appeared by counsel, the party cannot thereafter
28 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 DAINE CRAWLEY #1167447
24 HIGH DESERT STATE PRISON
25 PO BOX 650
INDIAN SPRINGS, NV, 89070

26 BY 
27 Secretary for the District Attorney's Office

28 KM/mah/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 19, 2020

A-20-816041-W	Daine Crawley, Plaintiff(s) vs. Warden Williams, HDSP, Defendant(s)
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August 19, 2020	10:15 AM	Petition for Writ of Habeas Corpus
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HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Rem Lord

RECORDER: De'Awna Takas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS

COURT stated findings and ORDERED, Petition GRANTED, status check SET for appointment of counsel.

8/26/2020 10:15 AM STATUS CHECK: APPOINTMENT OF COUNSEL

CLERK'S NOTE: District Attorney Drew Christensen emailed [christdr@ClarkCountyNV.gov] regarding appointment of counsel on 8/19/2020 . /rl 8/21/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 26, 2020

A-20-816041-W	Daine Crawley, Plaintiff(s)
	vs.
	Warden Williams, HDSP, Defendant(s)

August 26, 2020 10:15 AM Status Check

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Bailey, Roger Attorney

JOURNAL ENTRIES

- Present on behalf of the State, Brad Turner. Court stated Drew Christensen has represented Carl Arnold is appointed on another case and Mr. Bailey will accept the appointment today. Mr. Bailey stated that's his understanding. COURT ORDERED, Carl Arnold APPOINTED as counsel.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 25, 2021

A-20-816041-W	Daine Crawley, Plaintiff(s)
	vs.
	Warden Williams, HDSP, Defendant(s)

May 25, 2021	3:00 AM	Minute Order
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HEARD BY: Bluth, Jacqueline M.	COURTROOM: Chambers
---------------------------------------	----------------------------

COURT CLERK: Kristen Brown

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Petitioner s Petition for habeas corpus is hereby DENIED. The Court s ruling is as follows.

I. Defendant s claims are procedurally barred

NRS 34.810 states:

NRS 34.810 Additional reasons for dismissal of petition. [Effective January 1, 2020.]

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

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

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

(1) Presented to the trial court;

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

(3) Raised in any other proceeding that the petitioner has taken to secure relief from the

PRINT DATE: 08/05/2021

Page 3 of 4

Minutes Date: August 19, 2020

petitioner's conviction and sentence, unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

The Nevada Supreme Court has held that challenges to the validity of a guilty plea and claims of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction proceedings . . . [A]ll other claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings. *Franklin v. State*, 110 Nev. 750 (1994). A court must dismiss a habeas petition if it presents claims that either were or could have been presented in an earlier proceeding, unless the court finds both cause for failing to present the claims earlier or for raising them again and actual prejudice to the petitioner. *Evans v. State*, 117 Nev. 609 (2001).

Here, the grounds defendant raises in his supplemental petition should have been brought on direct appeal, and are therefore waived. Defendant argues: (1) equal protection/due process violation; (2) there were errors in defendant's PSI; (3) violation of the Court's Administrative Order; and (4) error in adjudication as a habitual criminal. Defendant does not challenge the validity of a guilty plea and/or raise claims of ineffective assistance of counsel. Further, defendant does not attempt to demonstrate good cause or prejudice for raising these claims for the first time in the instant proceedings.

II. Defendant's supplemental petition is a fugitive document

Defendant's instant pro per supplemental petition should be dismissed as a fugitive document pursuant to EDCR 7.40(a). Carl Arnold, Esq. was confirmed as counsel on August 26, 2020. The instant supplemental petition was filed seven months later on 3/18/21. Because petitioner cannot appear on his own behalf after he had already appeared by counsel, the current supplemental petition should be dismissed as a fugitive document.

For the reasons discussed above, Petitioner's Petition is Denied. State to file an order consistent with these findings.

CLERK'S NOTE: A copy of this minute order was distributed to: Karen Mishler, Deputy District Attorney and Petitioner, Daine Crawley at P.O. Box 208, Indian Springs, NV, 89070./kb

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated July 28, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 171.

DAINE ANTON CRAWLEY,

Plaintiff(s),

vs.

WARDEN WILLIAMS, HIGH DESERT
STATE PRISON,

Defendant(s),

Case No: A-20-816041-W

Dept. No: VI

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 5 day of August 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk