

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER LENARD BLOCKSON,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Nov 30 2021 03:17 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-18-336552-1

Docket No: 83656

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
CHRISTOPHER BLOCKSON # 50821,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

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

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ADDITIONAL FACTS OF THE CASE:

I pled guilty to a category D Felony - cruelty to Animals in violation of NRS 574.100(1)(g) and a category B Felony - possession of a Firearm by prohibited person in violation of NRS 202.360. I received a total aggregate sentence of 47-120 months in the Nevada Department of Corrections.

There is no category "D" Felony under NRS 574.100(1)(g). As a matter of law a violation of NRS 574.100(1)(g) "is" a misdemeanor pursuant to NRS 574.100(7)(a-b) on the first and second violation and "shall" be punished with two(2) days to six(6) months in the county jail... The language in the statute is mandatory.

"When a statute's language is clear and unambiguous, the apparent intent must be given effect, as there is no room for construction." *Edgington v. Edgington* 119 Nev. 577, 582-83, 80 P.3d 1282, 1286 (2003).

The D.A maliciously rewrote the Animal cruelty statute in all pleadings that the state filed, starting with the criminal complaint and culminating with the admonishment of rights for animal cruelty contained in the guilty plea agreement (See GPT attached).

The Admonishment of Rights for Animal cruelty maliciously set forth the legal basis for a violation of NRS 574.100(1)(g). (All subsections hereafter referred

1 to are from the cruelty to animals statute). In the
2 admonishment the state told at least seven (7) outright
3 lies to make me believe that a violation of
4 of §(1)(a) was a Felony. Specifically: the state
5 rewrote §(1)(a) to include willful language (copying
6 the Felony) that does not truthfully appear in the
7 statute until §(6)(a); the state called a violation of §(1)(a)
8 a Felony but it is a misdemeanor per §(7)(a-b) on
9 the first and second violation unless charged
10 under §(6)(a-b) or §(7)(c); the state attached
11 paragraphs (A) and (B) from §(6) to §(1)(a) to make
12 it appear that the misdemeanor of §(1)(a) is
13 punishable with the Felony of §(6)(a) even though
14 §(6)(a) was uncharged and adjudicated; the
15 state made a violation of §(1)(a) a Felony regardless
16 of the existence of prior convictions. However,
17 only §(6)(a-b) are punishable as Felonies regard-
18 less of prior convictions; the state removed §(1)(a)
19 from the provisions of §(7)(a-b) that provides
20 misdemeanors on the first and second violations
21 of §(1)(a); the state removed §(1)(a) from the provisions
22 of §(7)(c) that provides a category C Felony for the
23 third or subsequent violation of §(1)(a). (See
24 the cruelty to Animals statute attached)

25 These misrepresentations of the statute
26 were presented to me in the GPA as a true
27 and accurate admonishment of the Animal

1 cruelty statute. They are all False. The admonishment
2 was prepared by the Chief Deputy District Attorney
3 Amy Ferreira Nevada #001565.

4 I was never intended to Receive Due Process
5 of law pursuant to 14th U.S.C.A. I was
6 arrested April 5, 2018. I appeared in custody for initial
7 arraignment in justice court on April 9, 2018. At
8 that time I was released due to no criminal complaint.
9 The state asked for and received a 90 day continuance.
10 However, just nine days later, on April 17, 2018 the state
11 submitted a criminal complaint in which it alleged that
12 a violation of S(1)(a) was a Felony. It appears that I
13 was charged with a misdemeanor by the SCREENERS
14 within the DA's office. The special prosecutor thought
15 the charge should have been a Felony. The special prosecutor
16 released me then listened to jail tapes of phone con-
17 versations I had while there. Finding no probable cause
18 to support Felony animal cruelty, she simply alleged
19 that the misdemeanor was a Felony.

20 I Filed a post-conviction writ of Habeas corpus in
21 District Court. Judge Weiss told me in his order
22 summarily dismissing the petition that I just didn't
23 understand the law. He refused to address the facially
24 illegal sentence and he outright ignored the prosecutorial
25 misconduct refusing to acknowledge that the special
26 prosecutor actually rewrote the animal cruelty statute.
27 There was no way to deal with the outright lies in the

1 Admonishment so the judge simply ignored them.
2 The judge said that I was entitled to relief if
3 I could prove that my conviction was acquired in
4 violation of due process yet failed to acknowledge
5 the due process violation.

6 I appealed to the Nevada Supreme Court. The case
7 was transferred to the Nevada Court of Appeals (Case
8 # NCA 91360). The Court of Appeals affirmed my
9 conviction saying that the Post Conviction Writ of
10 Habeas Corpus was not the appropriate vehicle for a
11 person who took a guilty plea but did not allege
12 ineffective assistance of counsel or that the
13 plea was entered involuntarily. The research I've
14 done indicates that the Court of Appeals was
15 correct. Though they never addressed the merits.

16 I then filed a motion to modify and/or correct
17 facially illegal sentence. The state filed no opposition.

18 Judge Weiss also denied that motion. As he did with
19 the writ of Habeas Corpus he pointed to the sentencing
20 transcripts to prove that I entered a plea
21 voluntarily to willful animal cruelty. He refused to
22 acknowledge the law under Edwards v. State
23 918 P.2d 321 that says the only relevant scrutiny
24 on a motion to correct a facially illegal sentence
25
26
27
28

is whether or not the sentence^{CONT} imposed is at variance with the sentencing statute. Again the judge ignored the admonishment of rights for animal cruelty which proved that I was maliciously prosecuted in violation of NRS 199.310. Additionally the judge did not send me a copy of his order signaling that the 30 days I had to file a notice of appeal had started. I still got it and filed my notice of appeal to the Nevada Supreme court. I still have not received a copy of the order from the Judge. It is my belief that the judge was sitting on the order in the hope that my thirty days to file a notice of appeal would lapse while I waited. When I received the order from a friend it was stamp-filed for April 14, 2021 but the court clerk did not have it. For the above reason this motion should be granted as supported by the following law. NRS 1.235(a)(b); "The Supreme court has indicated that there may be situations 'in which the conduct of law enforcement officials is so outrageous that due process principles would absolutely bar the government from invoking the judicial processes to obtain a conviction.'" United States v. Russell, 411 U.S. 423, 431-32, 36 L. Ed 2d 366, 93 S. Ct. 1637 (1973); accord Hampton v. United States, 425 U.S. 484, 492-93, 48 L. Ed. 2d-

Defendant/ In

ADDITIONAL FACTS OF THE CASE:

113, 96 S. Ct. 1646 (1976) (Powell, J. concurring). We have stated that prosecution is barred "when the government's conduct is so grossly shocking and so outrageous as to violate the universal sense of justice." *United States v. Ramirez*, 710 F.2d 535, 539 (9th Cir. 1983) (quoting *United States v. Ryan*, 548 F.2d 782, 789 (9th Cir. 1976), cert. denied, 430 U.S. 965, 52 L. Ed. 2d 356, 97 S. Ct. 1644 (1977)).

The Chief Deputy DA and her office violated my right to due process under the 14th Amendment to the United States Constitution. The special prosecutor also violated NRS 199.310 which criminalizes malicious prosecution, NRS 199.145 which criminalizes false statements made under penalty of perjury and NRS 199.210 which criminalizes offering false evidence.

Pursuant to Article 1, section 2 of the Constitution for the State of Nevada, the Supreme Court of the State of Nevada is bound by decisions of the United States Supreme Court, yet not by decisions of the lower Federal courts. *Blanton v. North Las Vegas Mun. Court*, 103 Nev. 623 633, 748 P.2d 494 (1987), citing *Bargas v. Warden*, 87 Nev. 30, 487 P.2d 317 (1971).

I am aware that Amy Ferreira is no longer employed by the Clark County District Attorney.

ADDITIONAL FACTS OF THE CASE:

District Court Judge Weiss has twice demonstrated in his rulings that he is not capable of being fair and impartial in this matter. The Clark County District Attorney's Office has maliciously prosecuted me as proven by the admonishment of Rights prepared by then Chief Deputy District Attorney Amy Ferreira. Everyone knows what's going on. However all officers of the court including the judge have turned a blind eye to the travesty and fundamental unfairness that is unfolding in their presence. The one thing that I want everyone to remember is that I did not do this. We are here because of what the Chief Deputy District Attorney did and Judge Weiss is covering up. Based on the above law and argument District Court Judge Weiss should be removed from my case as well as the Clark County District Attorney's Office. My sentence should be overturned and I released from custody. I Declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

August 3, 2021

Christopher Blackson
Christopher Blackson 50821

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Blockson, hereby certify, pursuant to NRCP 5(b), that on this 3 day of August, 2021, I mailed a true and correct copy of the foregoing, "Motion to vacate conviction for Outrageous Government Conduct + Recusal of Judge Weiss and District Attorney of Office for Clark County Nevada" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

STEVEN D. GRIFFIN
CLERK OF THE COURT
200 Lewis Ave 3rd Floor
Las Vegas, NV 89155-1160

Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155-1212

CC:FILE

DATED: this 3 day of August, 2021.

Christopher L Blockson
Christopher L Blockson # 50821
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

17

ORIGINAL

96 Guilty Plea Agreement

9

1 **GPA**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **AMY FERREIRA**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #010347**
8 **200 Lewis Avenue**
9 **Las Vegas, NV 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DEC 21 2018

BY: Kristen Brown
KRISTEN BROWN, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-18-336552-1
GPA
Guilty Plea Agreement
4806139



9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

CASE NO: C-18-336552-1

12 **CHRISTOPHER BLOCKSON, aka,**
13 **Christopher Lenard Blockson,**
14 **#1220853**

DEPT NO: XXX

14 **Defendant.**

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty to: **COUNT 1 - CRUELTY TO ANIMALS (Category**
17 **D Felony - NRS 574.100.1a - NOC 55977), and COUNT 2 - OWNERSHIP OR**
18 **POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS**
19 **202.360 - NOC 51460), as more fully alleged in the charging document attached hereto as**
20 **Exhibit "1".**

21 My decision to plead guilty is based upon the plea agreement in this case which is as
22 follows:

23 As to Count 1, the parties agree to a sentence of nineteen (19) to forty-eight (48) months
24 in the Nevada Department of Corrections. As to Count 2, the parties agree to a sentence of
25 twenty-eight (28) to seventy-two (72) months in the Nevada Department of Corrections to run
26 consecutively to count 1 for a total aggregate sentence of forty-seven (47) to one hundred
27 twenty (120) months. The Defendant agrees to pay all restitution The Defendant agrees to
28 forfeit the firearm. The State agrees not to make federal referral and not to seek habitual

W:\2018\2018F060194\18F06094-GPA-(BLOCKSON_CHRISTOPHER)-001.DOCX

14 Exhibit "1"

13

18 97 Aeo
1 criminal treatment. Further, the State will not oppose dismissal of the remaining count at entry
2 of plea.

3 I agree to the forfeiture as set forth in the Stipulation for Compromise of Seized
4 Property which is attached hereto and incorporated herein by reference as Exhibit "2".

5 I understand that the State will use this conviction, and any other conviction from this
6 or any other State which prohibits the same or similar conduct, to enhance the penalty for any
7 similar subsequent offense, as detailed in the Cruelty to Animals: admonishment of Rights,
8 which I have reviewed with my attorney, attached hereto as Exhibit "3."

9 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
10 and/or impounded in connection with the instant case and/or any other case negotiated in
11 whole or in part in conjunction with this plea agreement.

12 I understand and agree that, if I fail to interview with the Department of Parole and
13 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
14 by affidavit review, confirms probable cause against me for new criminal charges including
15 reckless driving or DUI, but excluding minor traffic violations, the State will have the
16 unqualified right to argue for any legal sentence and term of confinement allowable for the
17 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
18 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
19 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
20 twenty-five (25) year term with the possibility of parole after ten (10) years.

21 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
22 plea agreement.

23 CONSEQUENCES OF THE PLEA

24 I understand that by pleading guilty I admit the facts which support all the elements of
25 the offense(s) to which I now plead as set forth in Exhibit "1".

26 As To Count 1, I understand that as a consequence of my plea of guilty The Court
27 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum
28 term of not less than ONE (1) year and a maximum term of not more than FOUR (4) years.

19

94

plea

1 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum
2 term of imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that
3 the law requires me to pay an Administrative Assessment Fee.

4 As to Count 2, I understand that as a consequence of my plea of guilty The Court must
5 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
6 of not less than ONE (1) year and a maximum term of not more than SIX (6) years. The
7 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
8 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that the law
9 requires me to pay an Administrative Assessment Fee.

10 I understand that, if appropriate, I will be ordered to make restitution to the victim of
11 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
12 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
13 reimburse the State of Nevada for any expenses related to my extradition, if any.

14 As to Count 1 and Count 2, I understand that I am eligible for probation for the offense
15 to which I am pleading guilty. I understand that, except as otherwise provided by statute, the
16 question of whether I receive probation is in the discretion of the sentencing judge.

17 I understand that I must submit to blood and/or saliva tests under the Direction of the
18 Division of Parole and Probation to determine genetic markers and/or secretor status.

19 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
20 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
21 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
22 and may receive a higher sentencing range.

23 I understand that if more than one sentence of imprisonment is imposed and I am
24 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
25 the sentences served concurrently or consecutively.

26 I understand that information regarding charges not filed, dismissed charges, or charges
27 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

28 I have not been promised or guaranteed any particular sentence by anyone. I know that

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2d 9a 11a

1 my sentence is to be determined by the Court within the limits prescribed by statute.

2 I understand that if my attorney or the State of Nevada or both recommend any specific
3 punishment to the Court, the Court is not obligated to accept the recommendation.

4 I understand that if the offense(s) to which I am pleading guilty was committed while I
5 was incarcerated on another charge or while I was on probation or parole that I am not eligible
6 for credit for time served toward the instant offense(s).

7 I understand that if I am not a United States citizen, any criminal conviction will likely
8 result in serious negative immigration consequences including but not limited to:

- 9 1. The removal from the United States through deportation;
- 10 2. An inability to reenter the United States;
- 11 3. The inability to gain United States citizenship or legal residency;
- 12 4. An inability to renew and/or retain any legal residency status; and/or
- 13 5. An indeterminate term of confinement, with the United States Federal
14 Government based on my conviction and immigration status.

15 Regardless of what I have been told by any attorney, no one can promise me that this
16 conviction will not result in negative immigration consequences and/or impact my ability to
17 become a United States citizen and/or a legal resident.

18 I understand that the Division of Parole and Probation will prepare a report for the
19 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
20 sentencing, including my criminal history. This report may contain hearsay information
21 regarding my background and criminal history. My attorney and I will each have the
22 opportunity to comment on the information contained in the report at the time of sentencing.
23 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
24 comment on this report.

25 WAIVER OF RIGHTS

26 By entering my plea of guilty, I understand that I am waiving and forever giving up the
27 following rights and privileges:

28 ///

100

Plea

- 1 1. The constitutional privilege against self-incrimination, including the right
2 to refuse to testify at trial, in which event the prosecution would not be
3 allowed to comment to the jury about my refusal to testify.
- 4 2. The constitutional right to a speedy and public trial by an impartial jury,
5 free of excessive pretrial publicity prejudicial to the defense, at which
6 trial I would be entitled to the assistance of an attorney, either appointed
7 or retained. At trial the State would bear the burden of proving beyond
8 a reasonable doubt each element of the offense(s) charged.
- 9 3. The constitutional right to confront and cross-examine any witnesses who
10 would testify against me.
- 11 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 12 5. The constitutional right to testify in my own defense.
- 13 6. The right to appeal the conviction with the assistance of an attorney,
14 either appointed or retained, unless specifically reserved in writing and
15 agreed upon as provided in NRS 174.035(3). I understand this means I
16 am unconditionally waiving my right to a direct appeal of this conviction,
17 including any challenge based upon reasonable constitutional,
18 jurisdictional or other grounds that challenge the legality of the
19 proceedings as stated in NRS 177.015(4). However, I remain free to
20 challenge my conviction through other post-conviction remedies
21 including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

22 I have discussed the elements of all of the original charge(s) against me with my
23 attorney and I understand the nature of the charge(s) against me.

24 I understand that the State would have to prove each element of the charge(s) against
25 me at trial.

26 I have discussed with my attorney any possible defenses, defense strategies and
27 circumstances which might be in my favor.

28 All of the foregoing elements, consequences, rights, and waiver of rights have been
29 thoroughly explained to me by my attorney.

30 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
31 that a trial would be contrary to my best interest.

32 I am signing this agreement voluntarily, after consultation with my attorney, and I am
33 not acting under duress or coercion or by virtue of any promises of leniency, except for those
34 set forth in this agreement.

18

21 101 plea

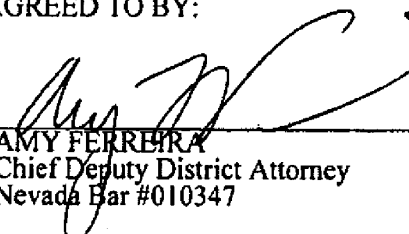
1 I am not now under the influence of any intoxicating liquor, a controlled substance or
2 other drug which would in any manner impair my ability to comprehend or understand this
3 agreement or the proceedings surrounding my entry of this plea.

4 My attorney has answered all my questions regarding this guilty plea agreement and its
5 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

6 DATED this 21 day of December, 2018.

7
8 
9 CHRISTOPHER BLOCKSON, aka,
Christopher Lenard Blockson
10 Defendant

11 AGREED TO BY:

12
13 
14 AMY FERREIRA
15 Chief Deputy District Attorney
Nevada Bar #010347
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28

22

102

Pea

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
 - 13 b. An inability to reenter the United States;
 - 14 c. The inability to gain United States citizenship or legal residency;
 - 15 d. An inability to renew and/or retain any legal residency status; and/or
 - 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
 - 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
 - c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 21 day of December, 2018.


MICHAEL TROIANO, ESQ.

mlb/dvu

23

103

ORIGINAL

1 INFM
 2 STEVEN B. WOLFSON
 3 Clark County District Attorney
 4 Nevada Bar #001565
 5 AMY FERRIERA
 6 Chief Deputy District Attorney
 7 Nevada Bar #010347
 8 200 Lewis Avenue
 9 Las Vegas, Nevada 89155-2212
 10 (702) 671-2500
 11 Attorney for Plaintiff

FILED IN OPEN COURT
 STEVEN D. GRIERSON
 CLERK OF THE COURT

DEC 10 2018

BY *Shannon M. Emmons*
 SHANNON M. EMMONS, DEPUTY

C-18-336552-1
 INFM
 Information

7 I.A. 12/10/18
 8 10:00 AM
 9 TROIANO

DISTRICT COURT
 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
 10 Plaintiff,

CASE NO: C-18-336552-1

11 -vs-

DEPT NO: XXX

12 CHRISTOPHER BLOCKSON, aka,
 13 Christopher Lenard Blockson, #1220853
 14 Defendant.

INFORMATION

15 STATE OF NEVADA }
 16 COUNTY OF CLARK } ss.

17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
 18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That CHRISTOPHER BLOCKSON, aka, Christopher Lenard Blockson, the
 20 Defendant(s) above named, having committed the crimes of CRUELTY TO ANIMALS
 21 (Category D Felony - NRS 574.100.1a - NOC 55977); OWNERSHIP OR POSSESSION
 22 OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC
 23 51460) and DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
 24 VEHICLE (Category B Felony - NRS 202.287 - NOC 51445), on or about the 4th day of
 25 April, 2018, within the County of Clark, State of Nevada, contrary to the form, force and effect
 26 of statutes in such cases made and provided, and against the peace and dignity of the State of
 27 Nevada,

28 ///

~~EXHIBIT~~ J:\MOM\B\BFW66094\18F06094-INFM-(BLOCKSON_CHRISTOPHER)-001.DOCX

21

Exhibit #2

2

24

104

1 COUNT 1 - CRUELTY TO ANIMALS

2 did willfully, unlawfully, maliciously and feloniously torture or unjustifiably maim,
3 mutilate or kill a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or by
4 failing to get medical treatment for said dog.

5 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

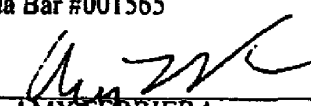
6 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
7 his custody or control, a firearm, to wit: a Ruger .357 revolver, bearing Serial No. 575-15259,
8 the Defendant being a convicted felon, having in 1996, been convicted of Possession of
9 Controlled Substance with Intent to Sell, in Case No. C135719, in the Eighth Judicial District
10 Court, Clark County, a felony under the laws of the State of Nevada.

11 COUNT 3 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
12 VEHICLE

13 did willfully, unlawfully, maliciously, and feloniously, while in, on or under a vehicle,
14 located at 3675 Cambridge Street, Apartment No. 230, thereof, Las Vegas, Clark County,
15 Nevada, discharge a firearm within or from the vehicle, while being within an area designated
16 by a City or County Ordinance as a populated area for the purpose of prohibiting the discharge
17 of weapons.

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

20 BY

21 
22 AMY FERRIERA
23 Chief Deputy District Attorney
24 Nevada Bar #010347

25
26
27 18F06094X/mlb/dvu
28 LVMPD EV#1804043713
(TK2)

25 105

STIPULATION FOR COMPROMISE OF SEIZED PROPERTY

DEFENDANT CHRISTOPHER BLOCKSON, aka, ID# 1220853 CRIMINALCASE# C-18-336552-1
Christopher Lenard Blockson
Seizing Law Enforcement Agency LAS VEGAS METROPOLITAN POLICE DEPARTMENT
Seizure Event Number 1804043713

IT IS HEREBY STIPULATED and AGREED by and between STEVEN B. WOLFSON, Clark County District Attorney through his undersigned Deputy, and the Defendant that a stipulation for compromise be entered into and resolved as part of the negotiations in the aforementioned criminal case(s) pertaining to property impounded or seized by the aforementioned law enforcement agency under the aforementioned event number(s), as follows:

1. PROSECUTOR CHECKS THE APPROPRIATE PARAGRAPHS:

- X a. TOTAL FORFEITURE: That Defendant agrees to release and waive any and all right, title and interest in said property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: ANY AND ALL PROPERTY SEIZED UNDER THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT EVENT NO. 1804043713, INCLUDING BUT NOT LIMITED TO THE HANDGUN SEIZED IN THE INSTANT CASE.

2. That the Defendant hereby authorizes the District Attorney's Office and the seizing law enforcement agency to take such action as is necessary, including, but not limited to, using this agreement to secure a judgment or an ex-parte order in any contemplated or pending companion forfeiture proceeding in order to give full force and effect to this agreement.
3. That the parties agree that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not and will not be considered as putting the Defendant in jeopardy of life, limb or property for the same offense under the Fifth Amendment of the United States Constitution and under Section Eight of Article One of the Nevada Constitution; and, that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not or will not constitute an excessive fine under the Eighth Amendment of the United States Constitution and under Section Six of Article One of the Nevada Constitution.
4. That the parties agree that any breach, withdrawal, repeal, rejection or any other abrogation of the negotiations in the aforementioned criminal case(s) shall not have any effect upon the finality of this stipulation; and, that any breach, withdrawal, repeal, rejection or any other abrogation of this stipulation shall not have any effect upon the finality of the negotiations in the aforementioned criminal case(s).
5. That this Stipulation for Compromise shall incorporate all of the protections attendant to such stipulations as contemplated under the provisions of NRS 48.105 as to all parties named herein; and, this Stipulation for Compromise shall not be construed in any fashion as an admission pertaining to any criminal charges, and shall not and does not constitute an admission of civil liability or fault on the part of any of the undersigned parties, or their present or former agents, servants, employees or others.
6. That the parties agree to accept these terms in full settlement and satisfaction of any and all civil claims and demands which each party or assignees may have against each other, agents and employees on account of the seizure or impoundment of said property.
7. That this Stipulation for Compromise shall forever, and completely bar any action or claim in any tribunal in any matter whatsoever, whether State, Federal or otherwise by the Defendant herein concerning the forfeiture of said property.
8. That the respective parties bear their own civil costs and attorney's fees which may have been occasioned and occurred as a result of the seizure and forfeiture of said property.

EXHIBIT "2"

w:\2018\2018F06094\18F06094-STIP-(Blockson_Christopher)-001.docx

23

26 . 00

IT IS SO STIPULATED and AGREED

| | | |
|---|-------------------------------|-----------------|
| Defendant | <u>Christopher Z Blockson</u> | <u>12/21/19</u> |
| | | Date |
| Attorney for Defendant, Nevada Bar # | <u>MT #1130</u> | <u>12/21/19</u> |
| | | Date |
| Clark County Deputy District Attorney, Nevada Bar #010347 | <u>[Signature]</u> | <u>12/19/18</u> |
| | | Date |

EXHIBIT "2"

w:\2018\2018F\060194\18F06094-STIP-(Blockson_Christopher)-001.docx

24

27

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER BLOCKSON, aka,
Christopher Lenard Blockson, #1220853

Defendant.

CASE NO: C-18-336552-1

DEPT NO: XXX

ANIMAL CRUELTY ADMONISHMENT OF RIGHTS (NRS 574.100) (Revised 7/26/16)

No willful language in § 1. a

I am the Defendant in this case. At this time, I am charged with animal cruelty regarding an animal belonging to me or to another, having either willfully and unlawfully committed an act of torture or unjustifiably maimed, mutilated, or killed an animal, and/or overdrove, overloaded, tortured, cruelly beat or unjustifiably injured, maimed, mutilated or killed an animal, and/or deprived an animal of necessary sustenance, food or drink, or neglected or refused to furnish it such sustenance or drink, and/or caused, procured or allowed an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink, and/or instigated, engaged in, or in any way furthered an act of cruelty to any animal, or any act tending to produce such cruelty, and/or abandoned an animal in circumstances other than those prohibited in NRS 574.110, and/or unlawfully restrained a dog, and/or used an unlawful enclosure for a dog, and/or intentionally engaged in horse tripping for sport, entertainment, competition or practice, and/or knowingly organized, sponsored, promoted, oversaw or received money for the admission of any person to a charreada or rodeo that includes horse tripping in violation of NRS 574.100.

I AM AWARE THAT I HAVE EACH OF THE FOLLOWING RIGHTS AND THAT I WILL BE WAIVING THESE RIGHTS IF I PLEAD GUILTY OR NOLO CONTENDERE:

1. The right to a speedy trial;
2. The right to require the State to prove the charge(s) against me beyond a reasonable doubt;
3. The right to confront and question all witnesses against me;
4. The right to subpoena witnesses on my behalf and compel their attendance;
5. The right to remain silent and not be compelled to testify if there were a trial; and
6. The right to appeal my conviction except on constitutional or jurisdictional grounds.

I AM ALSO AWARE THAT BY PLEADING GUILTY OR NOLO CONTENDERE I AM ADMITTING THE STATE COULD FACTUALLY PROVE THE CHARGE[S] AGAINST ME. I AM ALSO AWARE THAT MY PLEA OF GUILTY OR NOLO CONTENDERE MAY HAVE THE FOLLOWING CONSEQUENCES:

1. I understand the State will use this conviction, and any other conviction from this or any other State which prohibits the same or similar conduct, to enhance the penalty for any subsequent offense;
2. I understand that, as a consequence of my plea of guilty or nolo contendere, if I am not a citizen of the United States, I may, in addition to other consequences provided by law, be removed, deported, or excluded from entry into the United States or denied naturalization;
3. I understand that sentencing is entirely up to the court and the following range of penalties for committing the offense described above will apply:

DEFENDANT'S INITIALS: CB

DEFENDANT'S ATTORNEY'S INITIALS (if applicable): MA

EXHIBIT "3"

PAGE 1 of 2

25

ANY VIOLATION FOR TORTURING OR UNJUSTIFIABLY MAIMING, MUTILATING, OR KILLING AN ANIMAL (FELONY - NRS 574.100.1a)

(A) Except as otherwise provided in (B), is a category D felony and shall be punished as provided in NRS 193.130. (B) If the act was committed in order to threaten, intimidate, or terrorize another person, is a category C felony and shall be punished as provided in NRS 193.130. A violation of NRS 574.100.1a is a felony regardless of the existence of prior convictions, and any conviction under NRS 574.100.1a will be used to enhance any subsequent conviction under any subsection of NRS 574.100.

FIRST OFFENSE WITHIN 7 YEARS (MISDEMEANOR - NRS 574.100.1b-1/2/3/5):

At least 2 days, but not more than 6 months in the Clark County Detention Center and at least 48 hours, but not more than 120 hours of community service; a fine of not less than \$200 nor more than \$1,000 in addition to certain fees and assessments that are required by statute; further, the Court must impose restitution costs associated with the care and impoundment of any mistreated animal, including, without limitation, money expended for veterinary treatment, feed, and housing. The Court may also order the surrender of ownership or possession of any mistreated animal.

SECOND OFFENSE WITHIN 7 YEARS (MISDEMEANOR - NRS 574.100.1b-1/2/3/5):

At least 10 days, but not more than 6 months in the Clark County Detention Center or in residential confinement; a fine of not less than \$500 nor more than \$1,000 in addition to certain fees and assessments that are required by statute; and at least 100 hours, but not more than 200 hours of community service; further, the Court must impose restitution costs associated with the care and impoundment of any mistreated animal, including, without limitation, money expended for veterinary treatment, feed, and housing. The Court may also order the surrender of ownership or possession of any mistreated animal.

THIRD OFFENSE OR ANY SUBSEQUENT OFFENSE WITHIN 7 YEARS (FELONY - NRS 574.100.1b-1/2/3/5):

A Category C felony for which you may be placed on probation or imprisoned in a Nevada State Prison for a term of not less than 1 year, but not more than 5 years; and/or a fine of not more than \$10,000 in addition to certain fees and assessments that are required by statute. Further, the Court must impose restitution costs associated with the care and impoundment of any mistreated animal, including, without limitation, money expended for veterinary treatment, feed, and housing. The Court may also order the surrender of ownership or possession of any mistreated animal.

ALL DEFENDANTS MUST INITIAL EITHER #1 OR #2 BELOW--DO NOT INITIAL BOTH

1. ☒ *[Signature]*
2. ☐ *[Signature]*

I am represented by an attorney in this case. My attorney has fully discussed these matters with me and advised me about my legal rights. My attorney is Michael Treacy.

I have declined to have an attorney represent me and I have chosen to represent myself. I have made this decision even though there are dangers and disadvantages in self-representation in a criminal case, including but not limited to, the following:

- (a) Self-representation is often unwise, and a defendant may conduct a defense to his or her own detriment;
- (b) A defendant who represents himself or herself is responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the Judge in complying with those procedural rules;
- (c) A defendant representing himself or herself will not be allowed to complain on appeal about the competency or effectiveness of his or her representation;
- (d) The state is represented by experienced professional attorneys who have the advantage of skill, training and ability;
- (e) A defendant unfamiliar with legal procedures may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences; and
- (f) The effectiveness of the defense may well be diminished by a defendant's dual role as attorney and accused.

Christopher Blackstone 1-13-66 12/21/18
DEFENDANT'S SIGNATURE DATE OF BIRTH DATE

I HAVE REVIEWED THIS ADMONISHMENT WITH MY CLIENT AND HE/SHE UNDERSTANDS THE RIGHTS HE/SHE IS WAIVING AND THE CONSEQUENCES OF HIS/HER PLEA OF GUILTY/NOLO CONTENDERE TO THIS OVERDRIVING, TORTURING, INJURING OR ABANDONING AN ANIMAL AND/OR FAILURE TO PROVIDE SUSTENANCE AND/OR HORSE TRIPPING AND/OR OTHER ACT OF ANIMAL CRUELTY CHARGE.

WAT
DEFENDANT'S ATTORNEY (if applicable)

11300
BAR NUMBER

(A) & (B) From §6.0 not §1a
not a Felony Regardless of Prior convictions

not so is sustained or according to 7a

This is quoting NRS 574.100 7a + b

§11(a) omitted from statute said it says a violation of 12, 3, 5 are misdemeanors

§1a omitted from §17(b)

§11a omitted from §7(C)

The only difference between 1 & 6 are the words willful & malicious

Nev. Rev. Stat. § 574.100

Section 574.100 - Torturing, overdriving, injuring or abandoning animals; failure to provide proper sustenance; requirements for restraining dogs and using outdoor enclosures; horse tripping; penalties; exceptions

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110. The provisions of this paragraph do not apply to a feral cat that has been caught to provide vaccination, spaying or neutering and released back to the location where the feral cat was caught after providing the vaccination, spaying or neutering. As used in this paragraph, "feral cat" means a cat that has no apparent owner or identification and appears to be unsocialized to humans and unmanageable or otherwise demonstrates characteristics normally associated with a wild or undomesticated animal.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person shall not:

(a) Intentionally engage in horse tripping for sport, entertainment, competition or practice; or

(b) Knowingly organize, sponsor, promote, oversee or receive money for the admission of any person to a charreada or rodeo that includes horse tripping.

6. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. Except as otherwise provided in subsection 6, a person who violates subsection 1, 2, 3 or

5:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

8. In addition to any other fine or penalty provided in subsection 6 or 7, a court shall order a person convicted of violating subsection 1, 2, 3 or 5 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2, 3 or 5 including, without limitation, money expended for veterinary treatment, feed and housing.

9. The court may order the person convicted of violating subsection 1, 2, 3 or 5 to surrender ownership or possession of the mistreated animal.

10. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

11. As used in this section, "horse tripping" means the roping of the legs of or otherwise using a wire, pole, stick, rope or other object to intentionally trip or intentionally cause a horse, mule, burro, ass or other animal of the equine species to fall. The term does not include:

(a) Tripping such an animal to provide medical or other health care for the animal; or

(b) Catching such an animal by the legs and then releasing it as part of a horse roping event for which a permit has been issued by the local government where the event is conducted.

Section 574.100 . . . Nev. Rev. Stat. § 574.100

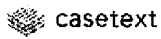
NRS 574.100

*Part 6:75:1873; B § 2487; BH § 4781; C § 4873; RL § 1378; NCL § 3236 + Part 6:178:1919; 1919 RL p. 3394;
NCL § 10574 - NRS A 1981. 672 [Ch. 364]; 1991. 491 [Ch. 223]; 1999. 2518 [Ch. 486]; 2009. 738 [Ch. 199];
2011, 1605 [Ch. 284]; 2013. 2174 [Ch. 401]*

Amended by 2017, Ch. 320, §5, eff. 6/2/2017.

Amended by 2013, Ch. 401, §1.5, eff. 10/1/2013.

*[Part 6:75:1873; B § 2487; BH § 4781; C § 4873; RL § 1378; NCL § 3236] + [Part 6:178:1919; 1919 RL p. 3394,
NCL § 10574]-(NRS A 1981. 672; 1991. 491; 1999. 2518; 2009. 738; 2011. 1605)*



Christopher Blockson

#50821

P.O. Box 208

Indian Springs, NV 89070

quodent

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NON-MACHINABLE MAIL
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Steven D. Griverson

Clerk of The Court

200 Lewis Ave 3rd Floor
Las Vegas, NV 89155-1160

Southern Desert
Correctional Center
AUG 14 2021
OUTGOING MAIL



1 **OPPS**
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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 CHRISTOPHER BLOCKSON,

13 Defendant.
14

CASE NO: C-18-336552-1

DEPT NO: XXX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO OVERTURN AND**
16 **VACATE CONVICTION FOR OUTRAGEOUS GOVERNMENT CONDUCT AND**
17 **RECUSAL OF JUDGE WIESE AND DISTRICT ATTORNEY'S OFFICE FOR**
18 **CLARK COUNTY, NEVADA**

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the
20 attached Points and Authorities in Opposition to Defendant's Motion.

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

24 //

25 //

26 //

27 //

28 //

\\CLARKCOUNTYDA.NET\CRM\CASE2\2018\171\09\201817109C-RSPN-(CHRISTOPHER LENARD BLOCKSON)-001.DOCX

POINTS AND AUTHORITIES
STATEMENT OF THE CASE

On December 10, 2018, Christopher Blockson ("Defendant") was charged by way of Information as follows: Count 1 – Cruelty to Animals (Category D Felony - NRS 574.100.1a), Count 2 – Ownership or Possession of Firearm by Prohibited Person (Category B Felony – NRS 202.360), Count 3 - Discharge of Firearm from or Within a Structure or Vehicle (Category B Felony- NRS 202.287).

On April 16, 2019, after negotiations, Defendant pled guilty to one count of Cruelty to Animals and one count of Ownership or Possession of Firearm by Prohibited Person. The Guilty Plea Agreement reflecting this negotiation was filed on December 21, 2018.

On April 16, 2019, Defendant was sentenced to the Nevada Department of Corrections (NDOC) as follows: Count 1- nineteen (19) to forty-eight (48) months and Count 2- twenty-eight (28) to seventy-two (72) months, to run consecutive to Count I. Defendant received an aggregate sentence of forty-seven (47) to one hundred twenty (120) months and seventy-four (74) days credit for time served. The Court dismissed Count 3. On April 22, 2019, the Judgment of Conviction was filed.

On May 2, 2019, Defendant filed a Motion for Appointment of Attorney to assist with filing his direct appeal. Defendant filed his Notice of Appeal that same day. The Court granted Defendant's Motion on May 23, 2019, and appointed counsel. On December 30, 2019, Defendant filed a Notice of Withdrawal of his appeal. On January 16, 2020, the Nevada Supreme Court filed an Order Dismissing Appeal. Order Dismissing Appeal, Case No. 78731. On February 13, 2020, Defendant filed a Petition for Writ Of Habeas Corpus (Post-Conviction) ("Petition"), Memorandum of Argument and Legal Authorities in Support of Writ of Habeas Corpus (Post-Conviction) ("Memorandum"), and Motion to Appoint Counsel. The State filed its Response on March 27, 2020. The Court denied Defendant's Petition as well as his associated filings and entered an order to that effect on May 5, 2020.

On June 4, 2020, Defendant filed a Motion for Discharge in Petition for Writ of Habeas Corpus (Post-Conviction). On July 14, 2020, the State filed its Response. On August 8, 2020, the Court denied Defendant's Motion.

1 On June 15, 2020, Defendant filed a Notice of Appeal regarding the Petition he filed
2 on February 13, 2020. On March 5, 2021, the Court of Appeals of the State of Nevada affirmed
3 the district court's judgment. Remittitur issued March 30, 2021.

4 On March 25, 2021, Defendant filed a Motion to Appoint Counsel and Motion to
5 Modify and/or Correct Illegal Sentence. The State did not file an opposition. On April 14,
6 2021, the Court denied the motion. Defendant appealed the decision, and on August 30, 2021,
7 the Court of Appeals affirmed this Court's denial of Defendant's Motion to Modify and/or
8 Correct Illegal Sentence and instructed the Court to issue an amended Judgment of Conviction
9 correcting a small clerical error.¹ Blockson v. State, No 82860-COA, filed August 30, 2021.
10 On August 13, 2021, Defendant filed a Motion to Overturn and Vacate Conviction for
11 Outrageous Government Conduct and Recusal of Judge Wiese and District Attorney's Office
12 for Clark County, Nevada. The State responds as follows.

13 ARGUMENT

14 **I. DEFENDANT'S CLAIMS REGARDING THE FELONY BEING A** 15 **MISDEMEANOR, AND GOVERNMENT MISCONDUCT ARE PROCEDURALLY** 16 **BARRED BY THE LAW OF THE CASE AND RES JUDICATA**

17 Defendant's arguments are procedurally barred by the law of the case given that the
18 Court of Appeals ruled on them already. The law of a first appeal is law of the case on all
19 subsequent appeals in which the facts are substantially the same." Hall v. State, 91 Nev. 314,
20 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38
21 (1969)). "The doctrine of the law of the case cannot be avoided by a more detailed and
22 precisely focused argument subsequently made after reflection upon the previous
23 proceedings." Id. at 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously
24 decided on direct appeal may not be reargued. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d
25 519, 532 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275
26 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.
27 Art. VI § 6.

28

¹ Because remittitur has not yet issued in that appeal, the State had provided the Order as Exhibit 1, attached.

1 Defendant's claims regarding government misconduct and the charge being a
2 misdemeanor have already been ruled on by the Court of Appeals of the State of Nevada. On
3 May 5, 2020, this Court denied Defendant's Petition for Writ of Habeas Corpus. In that order,
4 this Court discussed both of Defendant's claims:

5 Petitioner argues that counsel was ineffective for failing to argue
6 that NRS 574.100(1)(a) is a misdemeanor not a felony. The court
has already held that such argument has no merit.

7 [P]etitioner's claim is without merit, as he failed to demonstrate
8 that he was maliciously prosecuted in violation of NRS 199.130.

9 Order, filed May 5th, 2020, Case No. A-20-810446-W, at 4-5. On March 5, 2021, the Court
10 of Appeals of the State of Nevada ruled "the district court did not err by denying these claims."
11 Blockson v. Dep't of Corr., 481 P.3d 879 (Nev. App. 2021)(unpub). More recently, when
12 affirming this Court's denial of Defendant's Motion to Correct Illegal Sentence, the Court of
13 Appeals held the description of the crime sufficient, and that "it is clear that Blockson pleaded
14 guilty to, and was sentenced in accordance with, felony animal cruelty under NRS
15 574.100(6)(a)." Exhibit 1 at 2. Under the law of the case, Defendant's opportunity to argue
16 these claims no longer exists. Thus, this Court should deny the Defendant's motion.

17 Defendant's claim is also barred by res judicata. The decisions of the district court are
18 final decisions absent a showing of changed circumstances, and relitigation of claims is barred
19 by the doctrine of res judicata. See Mason v. State, 206 S.W.3d 869, 875 (Ark. 2005)
20 (recognizing the doctrine's applicability in the criminal context); see also York v. State, 342
21 S.W. 528, 553 (Tex. Crim. Appl. 2011). Accordingly, by simply continuing to file motions
22 with the same arguments, his motion is barred by the doctrines of the law of the case and res
23 judicata. Id.; Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

24 //

25 //

26 //

27 //

28 //

1 Res judicata bars Defendant's claims, as this Court ruled on these issues on multiple
2 occasions:

3 Defendant's claims that the State violated his rights,
4 misrepresented the statutes, maliciously rewrote the animal cruelty
5 statute, and maliciously prosecuted the Defendant, are all belied
6 by the record. Defendant has failed to set forth any basis for
7 appointment of counsel. Additionally, the Defendant's exact same
8 arguments were previously denied by this Court when Defendant's
9 Petition for Writ of Habeas Corpus was denied in A-20-810466-
10 W.

11 Order, filed April 14, 2021, Case No. C-18-336552, at 8. Defendant relitigates these same
12 issues without presenting any changed circumstances. Thus, res judicata bars Defendant's
13 claims regarding the representation of the statute and government conduct.

14 Additionally, the claims Defendant seeks to litigate necessitate either a direct appeal or
15 a petition for writ of habeas corpus. The Nevada Supreme Court held that "challenges to the
16 validity of a guilty plea and claims of ineffective assistance of trial and appellate counsel must
17 first be pursued in post-conviction proceedings.... [A]ll other claims that are appropriate for a
18 direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent
19 proceedings." Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (disapproved
20 on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). Given that this
21 motion constitutes neither of the two methods, this Court should deny Defendant's motion.

22 **II. DEFENDANT PROVIDES NO PROPER BASIS FOR THE RECUSAL OF THE** 23 **HONORABLE JUDGE WIESE**

24 Defendant fails to substantiate a proper reason for the recusal of the Honorable Judge
25 Wiese. "[R]ulings and actions of a judge during the course of official judicial proceedings do
26 not establish legally cognizable grounds for disqualification. The personal bias necessary to
27 disqualify must 'stem from an extrajudicial source and result in an opinion on the merits on
28 some basis other than what the judge learned from his participation in the case.' To permit an
allegation of bias, partially founded upon a justice's performance of his constitutionally
mandated responsibilities, to disqualify that justice from discharging those duties would

1 nullify the court's authority and permit manipulation of justice, as well as the court.” Matter of
2 Dunleavy, 104 Nev. 784, 789–90, 769 P.2d 1271, 1275 (1988) (cleaned up).

3 Defendant seeks the Honorable Judge Wiese’s recusal due to prior denials of his
4 petitions and motions. Defendant states that the “District Court Judge Wiese has twice
5 demonstrated in his rulings that he is not capable of being fair and impartial in this matter.”
6 Defendant’s Motion, at 8. This Court ruling against Defendant is insufficient evidence to prove
7 personal bias. Defendant additionally claims that the Honorable Judge Wiese was “sitting on
8 the order.” Id. at 6. This claim is belied by the record, as the order was filed on April 14, 2021.
9 As Defendant presents no cognizable grounds for recusal, this Court should deny the
10 Defendant’s request for the Honorable Judge Wiese’s recusal.

11 **III. DEFENDANT PROVIDES NO PROPER BASIS FOR THE RECUSAL OF THE**
12 **CLARK COUNTY DISTRICT ATTORNEY’S OFFICE**

13 Defendant claims that the Clark County District Attorney’s Office should be recused.
14 The Supreme Court of Nevada previously stated “there are several policy arguments in favor
15 of a test that limits the disqualification of an entire district attorney’s office: there is a large
16 cost to the county in paying for a special prosecutor to prosecute the case; an attorney is
17 presumed to perform his ethical duties, including keeping the confidences of a former client;
18 and the courts should not unnecessarily interfere with the performance of a prosecutor’s duties”
19 State v. Eighth Jud. Dist. Ct. (Zogheib), 130 Nev. 158, 164, 321 P.3d 882, 886 (2014), as
20 modified (Apr. 1, 2014). The test for recusal looks at whether the conflict would render it
21 unlikely that the defendant would receive a fair trial unless the entire prosecutor’s office is
22 disqualified from prosecuting the case.” Id. at 165.

23 In the procedural context of Defendant’s Motion, such a standard is impossible to meet.
24 Defendant’s opportunity for a trial is over, and so cannot be rendered any more or less fair.
25 While Defendant claims that the Clark County District Attorney’s Office engaged in malicious
26 prosecution, both this Court and the Court of Appeals for the State of Nevada rejected his
27 arguments. Defendants request for recusal is baseless and without merit. Thus, this Court
28 should deny his motion.

1 **CONCLUSION**

2 Based on the foregoing reasons, Defendant's Motion should be DENIED

3 DATED this 31st day of August, 2021.

4 Respectfully submitted,

5 STEVEN B. WOLFSON
6 Clark County District Attorney
Nevada Bar #10539

7
8 BY  for

JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408

10
11 **CERTIFICATE OF MAILING**

12 I hereby certify that service of the above and foregoing was made this 31st day of
13 August 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

14 CHRISTOPER BLOCKSON
15 ID# 50821
Southern Desert Correctional Center
20825 Cold Creek Rd.
16 P.O. Box 208
Indian Springs, NV, 89070

17
18
19 BY  Secretary for the District Attorney's Office

20
21
22
23
24
25
26
27
28 JN/clh/L3

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER LENARD BLOCKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82860-COA

FILED

AUG 30 2021

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

*ORDER OF AFFIRMANCE AND REMANDING TO CORRECT THE
JUDGMENT OF CONVICTION*

Christopher Lenard Blockson appeals from a district court order denying a motion to correct illegal sentence and a motion to appoint counsel filed on March 25, 2021. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

In his motion, Blockson claimed his sentence of 19 to 48 months in prison was improper because the sentence exceeds the permissible sentence for misdemeanor animal cruelty. A sentence "at variance with the controlling sentencing statute" is illegal. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (quotation marks omitted). NRS 574.100(1)(a) prohibits cruelty to animals. A first-time violation of that section, without more, is a misdemeanor offense and subject to imprisonment for not more than six months. See NRS 574.100(7)(a)(1). However, if an offender "willfully and maliciously violates [NRS 574.100(1)(a)]," he "is guilty of a category D felony and shall be punished as provided in NRS 193.130." NRS 574.100(6)(a). And a category D felony is subject to a sentence of imprisonment of "a minimum term of not less than 1 year and a maximum term of not more than 4 years." NRS 193.130(2)(d).

In his motion, Blockson contended that, because his information, guilty plea agreement, and judgment of conviction refer only to section (1)(a) of NRS 574.100, he is entitled to be sentenced for a misdemeanor. While the documents mention only NRS 574.100(1)(a) in connection to that offense, the information and the guilty plea agreement described the offense as a category D felony, and the information further provides that Blockson committed the offense "willfully, unlawfully, maliciously, and feloniously." The plea agreement reflects both parties stipulated to a sentence of 19 to 48 months in prison. And during the plea canvass, Blockson stated he understood the possible sentencing range to be that for the felony and that he committed the offense "willfully, unlawfully, maliciously, and feloniously." Based on these facts, it is clear that Blockson pleaded guilty to, and was sentenced in accordance with, felony animal cruelty under NRS 574.100(6)(a). And because the district court imposed Blockson's sentence in accordance with NRS 574.100(6)(a), Blockson did not demonstrate that his sentence was illegal. Therefore, we conclude the district court did not err by denying this claim.


We note, however, that the judgment of conviction contains a clerical error. A judgment of conviction must include sentencing statutes. NRS 176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS 574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error "may be corrected by the court at any time." NRS 176.565. Accordingly, we direct the district court, upon remand, to enter an amended judgment of conviction that includes the proper sentencing statutes. We therefore remand this matter to the district court for the limited purpose of correcting the clerical error in the judgment of conviction.


Blockson also claimed that the State maliciously prosecuted him. This claim fell outside the narrow scope of claims permissible in a motion to modify or correct a sentence. *See Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, we conclude the district court did not err by denying this claim.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED AND REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerry A. Wiese, District Judge
Christopher Lenard Blockson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We conclude the district court did not err by denying Blockson's motion for the appointment of counsel.

Christopher Blackson ID NO. 50821

SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89010

FILED

SEP 16 2021

CLERK OF COURT

District Court
Clark County Nevada

State of Nevada

v.

Christopher Blackson

CASE NO.:

C-18-336552-1

DEPT. NO.:

XXX

DOCKET:

Defendant's Reply to State's opposition to defendant's
Motion to arrest and vacate conviction for outrageous
government conduct and refusal of Judge Weis and
District Attorney's Office for Clark County Nevada

COMES NOW, defendant Christopher Blackson, herein above respectfully
moves this Honorable Court for an

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

DATED: this 9 day of October, 2021

BY:

Christopher Blackson
Christopher Blackson # 50821
Defendant In Proper Personam

RECEIVED

SEP 15 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

The state argues that my claims are procedurally barred by the law of the case and Res judicata. My claim of outrageous government conduct/prosecutorial misconduct/malicious prosecution has never been heard on the merits.

The District Judge ignored the Admonishment of Rights for animal cruelty attached to the guilty plea agreement (exhibit #3), in which the Chief Deputy DA, Amy Ferrera, told 7 factual lies on the animal cruelty statute to induce me to plead guilty to a felony that she knew was actually a misdemeanor. The court ignored this evidence in his order summarily dismissing my Post conviction writ of Habeas Corpus (PCWHC).

On appeal, the Nevada Court of Appeals affirmed my sentence and conviction. They refused to address either my facially illegal sentence or the malicious prosecution claims as outside of the scope of a PCWHC. I therefore filed a motion to correct a facially illegal sentence which this court also denied. Again the District Court ignored the Admonishment of Rights prepared by Amy Ferrera. The Court of Appeals found that the misrepresentations of the statute

1 were a clerical error. However, the court of appeals
2 again ignored the admonishment of rights for
3 animal cruelty. The admonishment was the last
4 document prepared by MS Ferreira in this
5 case. In her own words the admonishment
6 proves that the misrepresentations of the
7 statute by MS Ferreira were wilful and
8 malicious. The court of appeals found that
9 those claims of malicious prosecution were
10 outside the very narrow scope of a motion to
11 correct a facially illegal sentence.

12 I, therefore, filed the instant motion, that
13 my claims of outrageous government
14 conduct / malicious prosecution could be
15 heard. So far I've been stone-walled and
16 silenced. Now to say that my claim of
17 outrageous government conduct / malicious
18 prosecution should be procedurally barred is
19 ludicrous. We all have the Admonishment
20 of Rights for animal cruelty that is so damning
21 that the court and the DA can't even
22 acknowledge its existence.

23 Shame! You shame America and the state
24 of Nevada. A sentence acquired in violation of
25 due process is illegal. *Passanisi v. State of Nevada*,
26 108, Nev. 313.

1
2 An illegal sentence can be challenged at any
3 time.

4 To the Honorable Judge Weiss... Mr John
5 Nimani: The Chief Deputy District Attorney, Amy
6 Ferreira, rewriting the Animal cruelty statute
7 in the Admonishment of rights for animal cruelty
8 is simply outrageous government conduct. It
9 clearly violates the principles of Due process and
10 render the resulting conviction and sentence
11 illegal.

12 The DA now argues that I have nothing new.
13 it's right. Only the old evidence that the
14 DA has ignored. The fact that all of you people
15 have ignored the admonishment will not make
16 it go away. I will not go away.

17 Judge Weiss should at least step aside because
18 he refuses to even acknowledge the Admonishment
19 in which the state told seven (7) factual lies
20 on the Animal cruelty statute to induce a guilty
21 plea to a misdemeanor masquerading as a
22 Felony. The DA should be recused for the same
23 reason. Amy Ferreira and her antics will not go
24 away because she got Fired. Her miscarriages
25 of justice should be collected not carried up.
26 I contacted the news.

27 October 9, 2021

Christopher J. Blockson
Christopher L. Blockson

Page

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Blockson, hereby certify, pursuant to NRCP 5(b), that on this 9th
day of October, 2021, I mailed a true and correct copy of the foregoing, "Defendant's
reply to state's opposition to defendant's motion to overturn +
vacate conviction + recusal of Judge Weiss and DA for back
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

STEVEN D. GRIFFIN
CLERK OF THE COURT
200 Lewis Ave, 3rd Floor
Las Vegas, NV 89155-1160

CC:FILE

DATED: this 9th day of October, 2021.

Christopher F. Blockson
Christopher Blockson # 50821
(In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Christopher Blackson
#50821
P.O. Box 208
Indian Springs, NV 89070

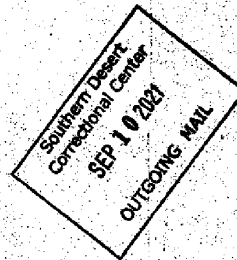
CONFIDENTIAL

Southern Desert
Correctional Center
SEP 1 0 2021
OUTGOING MAIL

Steven D. Garison
Chief of The Court
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155-1160

8/5#
2009101
US POSTAGE \$001.56
ZIP 89101
047111264121

CONFIDENTIAL



CONFIDENTIAL

1 Christopher Blackson

2 NDOC No. 50821

3 P.O. Box 208, Indian Springs, NV 89070

4 In proper person

FILED

SEP 16 2021

John J. Sullivan
CLERK OF COURT

5
6 IN THE 8th JUDICIAL DISTRICT COURT OF THE
7 STATE OF NEVADA IN AND FOR THE
8 COUNTY OF Clark

9
10 Christopher Blackson

11)
12)
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29)

October 7, 2021
8:30 AM

v.

Case No. C-18-336552-1

The State of Nevada

Dept. No. XXX

Respondent.)

20 MOTION AND ORDER FOR TRANSPORTATION
21 OF INMATE FOR COURT APPEARANCE
22 OR, IN THE ALTERNATIVE,
23 FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE

24
25 Petitioner, Christopher Blackson, proceeding pro se, requests
26 that this Honorable Court order transportation for his personal appearance or, in the
27 alternative, that he be made available to appear by telephone or by video conference
28 at the hearing in the instant case that is scheduled for October 15, 2021
29 at 8:30 a.m.

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at Southern Desert Correctional Center.

3 My mandatory release date is _____.

4
5 2. The Department of Corrections is required to transport offenders to and
6
7 from Court if an inmate is required or requests to appear before a Court in this state.
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is
11 required or requested to appear before a Court in this state, the
12 Department shall transport the offender to and from Court on the day
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the
15 Department shall transport the offender to Court on the date scheduled
16 for his appearance if it is possible to transport the offender in the usual
17 manner for the transportation of offenders by the Department. If it is
18 not possible for the Department to transport the offender in the usual
19 manner:

20 (a) The Department shall make the offender available on the date scheduled
21 for his appearance to provide testimony by telephone or by video conference,
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to
24 and from the Court, if the Court so orders. If the Court orders special
25 transportation, it shall order the county in which the Court is located to
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

☒ I AM NEEDED AS A WITNESS.

My petition raises substantial issues of fact concerning events in which I participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S. 205 (1952) (District Court erred when it made findings of fact concerning Hayman's knowledge and consent to his counsel's representation of a witness against Hayman without notice to Hayman or Hayman's presence at the evidentiary hearing).

☒ THE HEARING WILL BE AN EVIDENTIARY HEARING.

My petition raises material issues of fact that can be determined only in my presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention that allegations are improbable and unbelievable cannot serve to deny the petitioner an opportunity to support them by evidence). The Nevada Supreme Court has held that the presence of the petitioner for habeas corpus relief is required at any evidentiary hearing conducted on the merits of the claim asserted in the petition. *See Gebers v. Nevada*, 118 Nev. 500 (2002).

4. The prohibition against ex parte communication requires that I be present at any hearing at which the state is present and at which issues concerning the claims raised in my petition are addressed. U.S. Const. amends. V, VI.

5. If a person incarcerated in a state prison is required or is requested to appear as a witness in any action, the Department of Corrections must be notified in writing not less than 7 business days before the date scheduled for his appearance in Court if the inmate is incarcerated in a prison located not more than 40 miles from Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or more from Las Vegas, the Department of Corrections must be notified in writing not less than 14 business days before the date scheduled for the person's appearance in Court.

6. Southwestern Desert Correctional Center is located approximately 25 miles from Las Vegas, Nevada.

7. If there is insufficient time to provide the required notice to the Department of Corrections for me to be transported to the hearing, I respectfully request that this Honorable Court order the Warden to make me available on the date of the scheduled appearance, by telephone, or video conference, pursuant to NRS 209.274(2)(a), so that I may provide relevant testimony and/or be present for the evidentiary hearing.

8. The rules of the institution prohibit me from placing telephone calls from the institution, except for collect calls, unless special arrangements are made with prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my telephone appearance can be made by contacting the following staff member at my institution: Counselor Smith OR Counselor Brooks whose telephone number is

Dated this 9th day of September, 2021

Christopher L. Blackson

Christopher Z. Blackson

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Beckson, hereby certify, pursuant to NRCP 5(b), that on this 9th
day of September, 2021, I mailed a true and correct copy of the foregoing, "Motion and order
for transcription of inmate for court appearance or in the
alternative, for appearance by phone or video conference."
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

STEVEN D. GRISSON
CLERK OF THE COURT
200 LEWIS AVENUE 3RD FLOOR
LV, NV 89155

CC: FILE

DATED: this 9 day of September, 2021.

Christopher Beckson
Christopher Beckson # 50921
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Christopher Blackson
#50821
P.O. Box 208
Indian Springs, NV 89070

CONFIDENTIAL

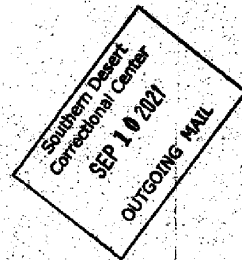
Southern Desert
Correctional Center
SEP 10 2021
OUTGOING MAIL

STEVEN D. GRIVISON
Chief of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155-1160

8/5#
20091101

product FIRST CLASS
09/13/2021
US POSTAGE \$001.56
ZIP 89101
04116 254121

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CONFIDENTIAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER LENARD BLOCKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 82860
District Court Case No. C336552

FILED

SEP 27 2021

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED AND REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction."

Judgment, as quoted above, entered this 30 day of August, 2021.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
September 24, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Kaitlin Meetze
Administrative Assistant

C-18-336552-1
CCJR
NV Supreme Court Clerks Certificate/Judgr
4968450



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER LENARD BLOCKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82860-COA

FILED

AUG 30 2021

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

**ORDER OF AFFIRMANCE AND REMANDING TO CORRECT THE
JUDGMENT OF CONVICTION**

Christopher Lenard Blockson appeals from a district court order denying a motion to correct illegal sentence and a motion to appoint counsel filed on March 25, 2021. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

In his motion, Blockson claimed his sentence of 19 to 48 months in prison was improper because the sentence exceeds the permissible sentence for misdemeanor animal cruelty. A sentence "at variance with the controlling sentencing statute" is illegal. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (quotation marks omitted). NRS 574.100(1)(a) prohibits cruelty to animals. A first-time violation of that section, without more, is a misdemeanor offense and subject to imprisonment for not more than six months. See NRS 574.100(7)(a)(1). However, if an offender "willfully and maliciously violates [NRS 574.100(1)(a)]," he "is guilty of a category D felony and shall be punished as provided in NRS 193.130." NRS 574.100(6)(a). And a category D felony is subject to a sentence of imprisonment of "a minimum term of not less than 1 year and a maximum term of not more than 4 years." NRS 193.130(2)(d).

In his motion, Blockson contended that, because his information, guilty plea agreement, and judgment of conviction refer only to section (1)(a) of NRS 574.100, he is entitled to be sentenced for a misdemeanor. While the documents mention only NRS 574.100(1)(a) in connection to that offense, the information and the guilty plea agreement described the offense as a category D felony, and the information further provides that Blockson committed the offense "willfully, unlawfully, maliciously, and feloniously." The plea agreement reflects both parties stipulated to a sentence of 19 to 48 months in prison. And during the plea canvass, Blockson stated he understood the possible sentencing range to be that for the felony and that he committed the offense "willfully, unlawfully, maliciously, and feloniously." Based on these facts, it is clear that Blockson pleaded guilty to, and was sentenced in accordance with, felony animal cruelty under NRS 574.100(6)(a). And because the district court imposed Blockson's sentence in accordance with NRS 574.100(6)(a), Blockson did not demonstrate that his sentence was illegal. Therefore, we conclude the district court did not err by denying this claim.

We note, however, that the judgment of conviction contains a clerical error. A judgment of conviction must include sentencing statutes. NRS 176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS 574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error "may be corrected by the court at any time." NRS 176.565. Accordingly, we direct the district court, upon remand, to enter an amended judgment of conviction that includes the proper sentencing statutes. We therefore remand this matter to the district court for the limited purpose of correcting the clerical error in the judgment of conviction.

Blockson also claimed that the State maliciously prosecuted him. This claim fell outside the narrow scope of claims permissible in a motion to modify or correct a sentence. See *Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, we conclude the district court did not err by denying this claim.

For the foregoing reasons, we


ORDER the judgment of the district court AFFIRMED AND REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.¹



Gibbons C.J.



Tao J.



Bulla J.

cc: Hon. Jerry A. Wiese, District Judge
Christopher Lenard Blockson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We conclude the district court did not err by denying Blockson's motion for the appointment of counsel.

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER LENARD BLOCKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 82860
District Court Case No. C338552

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: September 24, 2021

Elizabeth A. Brown, Clerk of Court

By: Kaitlin Meetze
Administrative Assistant

cc (without enclosures):

Hon. Jerry A. Wiese, District Judge
Christopher Lenard Blockson
Clark County District Attorney \ Alexander G. Chen, Chief Deputy District
Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on SEP 27 2021.

Deputy HEATHER UNGERMANN
District Court Clerk

**RECEIVED
APPEALS**

SEP 27 2021

CLERK OF THE COURT

1 JOCF

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

5 STATE OF NEVADA,)

6 Plaintiffs,)

7 vs.)

8 CHRISTOPHER BLOCKSON,)

9 Defendant.)

CASE NO.: C-18-336552-1
DEPT. NO.: XXX

10
11
12 **AMENDED JUDGMENT OF CONVICTION**
13 **(PLEA OF GUILTY)**

14 The Defendant previously appeared before the Court with counsel and entered a
15 plea of guilty to the crimes of COUNT 1 – CRUELTY TO ANIMALS (Category D Felony)
16 in violation of NRS 574.100.1a; COUNT 2 – OWNERSHIP OR POSSESSION OF
17 FIREARM BY PROHIBITED PERSON (Category B Felony) in violation of NRS
18 202.360; and COUNT 3 – DISCHARGE OF FIREARM FROM OR WITHIN A
19 STRUCTURE OR VEHICLE (Category B Felony) in violation of NRS 202.287;
20 thereafter, on the 16th day of April, 2019, the Defendant was present in court for
21 sentencing with counsel, MICHAEL TROIANO, ESQ., and good cause appearing,

22 THE DEFENDANT WAS ADJUDICATED guilty of said offenses and, in addition
23 to the \$25.00 Administrative Assessment, \$250.00 Indigent Defense Civil Assessment
24 Fee, and \$150.00 DNA Analysis Fee including testing to determine genetic markers
25 plus \$3.00 DNA Collection Fee, the Defendant was sentenced to the Nevada
26 Department of Corrections (NDC) as follows: COUNT 1 – a MAXIMUM of FORTY-
27 EIGHT (48) MONTHS, with a MINIMUM Parole Eligibility of NINETEEN (19)
28 MONTHS; COUNT 2 – a MAXIMUM of SEVENTY-TWO (72) MONTHS with a
MINIMUM Parole Eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE TO
COUNT 1; with SEVENTY-FOUR (74) DAYS credit for time served. The AGGREGATE
TOTAL sentence is ONE HUNDRED TWENTY (120) MONTHS MAXIMUM with a
MINIMUM of FORTY-SEVEN (47) MONTHS. COUNT 3 DISMISSED.

1 Pursuant to the ORDER OF AFFIRMANCE AND REMANDING TO
2 CORRECT THE JUDGMENT OF CONVICTION, from the Nevada Court of
3 Appeals, dated 8/30/21 (Case No. 82860-COA), the Judgment of Conviction
4 is amended as follows:

5 The Defendant previously appeared before the Court with counsel
6 and entered a plea of guilty to the crimes of COUNT 1 – CRUELTY TO
7 ANIMALS (Category D Felony) in violation of NRS 574.100.6a; COUNT 2 –
8 OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
9 (Category B Felony) in violation of NRS 202.360; and COUNT 3 –
10 DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
11 VEHICLE (Category B Felony) in violation of NRS 202.287; thereafter, on
12 the 16th day of April, 2019, the Defendant was present in court for
13 sentencing with counsel, MICHAEL TROIANO, ESQ., and good cause
appearing,

14 THE DEFENDANT WAS ADJUDICATED guilty of said offenses and,
15 in addition to the \$25.00 Administrative Assessment, \$250.00 Indigent
16 Defense Civil Assessment Fee, and \$150.00 DNA Analysis Fee including
17 testing to determine genetic markers plus \$3.00 DNA Collection Fee, the
18 Defendant was sentenced to the Nevada Department of Corrections (NDC)
19 as follows: COUNT 1 – (pursuant to NRS 574.100(6)(a), and NRS
20 193.130(2)(d), to a MAXIMUM of FORTY-EIGHT (48) MONTHS, with a
21 MINIMUM Parole Eligibility of NINETEEN (19) MONTHS; COUNT 2 – a
22 MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole
23 Eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE TO COUNT 1;
24 with SEVENTY-FOUR (74) DAYS credit for time served. The AGGREGATE
TOTAL sentence is ONE HUNDRED TWENTY (120) MONTHS MAXIMUM
with a MINIMUM of FORTY-SEVEN (47) MONTHS. COUNT 3 DISMISSED.

25 DATED this _____ day of October, 2021.

Dated this 4th day of October, 2021

26
27
28
DISTRICT JUDGE


738 7CA E060 893F
Jerry A. Wiese
District Court Judge

LK

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 State of Nevada

CASE NO: C-18-336552-1

7 vs

DEPT. NO. Department 30

8 Christopher Blockson
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 10/4/2021

15 Jason Makris

jason.makris@makrislegal.com

16 Steven Wolfson

pdmotions@clarkcountyda.com

17 Trisha Garcia

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20 Caesar Almase

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21 Kimberly Farkas

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**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

| | | |
|-----------------------|---|-------------------------|
| STATE OF NEVADA, |) | |
| |) | |
| Plaintiffs, |) | CASE NO.: C-18-336552-1 |
| |) | DEPT. NO.: XXX |
| vs. |) | |
| |) | |
| CHRISTOPHER BLOCKSON, |) | |
| |) | ORDER |
| Defendant. |) | |
| |) | |

INTRODUCTION

The above-referenced matter is scheduled for a hearing on October 5, 2021, with regard to Defendant's Motion to Overturn and Vacate Conviction for Outrageous Government Conduct and Recusal of Judge Wiese and District Attorney's Office for Clark County, Nevada. This matter has also been remanded by the Nevada Court of Appeals to Correct the Judgment of Conviction. Pursuant to the Administrative Orders of the Court, as well as N.R.Cr.P. 8(2), these matters may be decided with or without oral argument. This Court has determined that it would be appropriate to resolve these issues on the pleadings, and consequently, this Order issues.

FACTUAL AND PROCEDURAL HISTORY

On 12/10/18, Defendant Christopher Blockson was charged in Case No. C336552 with: Count 1- Cruelty to Animals (Category D Felony- NRS 574.100.1a); Count 2- Ownership or Possession of Firearm by Prohibited Person (Category B Felony- NRS 202.360); and Count 3- Discharge of Firearm From or Within a Structure or Vehicle (Category B Felony- NRS 202.287).

In conformity with the allegations in the Information, Defendant pled guilty to willfully, unlawfully, maliciously and feloniously torturing, unjustifiably maiming or killing a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or failing to get medical treatment for said dog. He was also charged with willfully, unlawfully, and feloniously owning, or having in his possession and/or under his custody or control, a Ruger .357 revolver after being convicted in 1996 of Possession of Controlled Substance with Intent to Sell, which is a felony under Nevada law.

1 Defendant argues that this case arose when his wife brought home a rescue dog,
2 which then attacked him.

3 Defendant was represented by Michael Troiano at the trial level. Pursuant to a
4 (Guilty Plea Agreement) GPA filed on 12/21/18, Defendant pled guilty to one count of
5 Cruelty to Animals and one count of Ownership or Possession of Firearm by Prohibited
6 Person on 04/16/19. Defendant was sentenced to 19-48 months on Count 1 and 28-72
7 months on Count 2, to run consecutive to Count 1. Defendant received an aggregate
8 sentence of 47 to 120 months with 74 days' credit for time served. The Court dismissed
9 Count 3. The JOC was filed on 04/22/19.

10 Defendant filed a Notice of Appeal on 05/02/19, and the Court appointed
11 counsel Caesar Almase, Esq. on 05/23/19. On 08/01/19, the Supreme Court filed an
12 Order indicating that there was some confusion about what lawyer was representing
13 the Defendant. It is unclear what happened at that point between Makris and Almase,
14 but Almase is currently listed on Odyssey as counsel of record in the instant case,
15 C336552, and Defendant is listed as pro se in A810466.

16 Defendant filed a Notice of Withdrawal of his appeal on 12/30/19, and the
17 Supreme Court filed an Order Dismissing Appeal on 01/16/20 in Case No. 78731,
18 indicating that Defendant had filed a notice of voluntary withdrawal of his direct
19 appeal.

20 Defendant then filed a Motion for Appointment of Attorney and post-conviction
21 Petition for Writ of Habeas Corpus (PWHC) in related case no. A810466 on 02/13/20,
22 in which he alleged that his sentence in Count 1 is illegal, because the State incorrectly
23 alleged that a violation of NRS 574.100(1)(a) was a felony. Defendant believed this
24 violation was actually a misdemeanor per statute; that his sentence on Count 1 was
25 illegal; and that his plea was thus not knowing, voluntary, or intelligent. Defendant
26 argued that because counsel did not catch the State's mistake, counsel was therefore
27 ineffective. Defendant also argued that he accepted the deal because it was better than
28 facing habitual treatment, and consequently, he did enter his plea knowingly and
voluntarily, and did not wish to withdraw his plea. Defendant filed a Motion for
Appointment of Counsel on 02/13/20 as well. That PWHC was set to be heard on
05/07/20, but was decided on the papers instead. An Order denying Defendant's first
PWHC was filed on 05/05/20, in which the District Court stated that Defendant

1 appeared to be misinterpreting NRS 574.100, because NRS 574.100(6) states in
2 relevant part that a person who "willfully and maliciously" violates NRS 574.100(1)(a)
3 "is guilty of a category D felony." Therefore, Defendant's argument that he was
4 mischarged was belied by the record, and counsel was consequently not ineffective and
5 appointment of counsel was unnecessary. Defendant's PWHC therefore lacked merit,
6 and Defendant failed to meet his burden in establishing that his Due Process rights
7 were violated.

8 Defendant appealed the 05/05/20 Order from A810466 to the Supreme Court
9 on 06/16/20. On 07/01/20, the Supreme Court filed an 'Order Directing Transmission
10 of Record and Regarding Briefing,' in which the Court concluded that its review of the
11 complete record is warranted. The Record on Appeal was transmitted on 07/02/20.
12 On 03/05/21, the Supreme Court filed an Order of Affirmance in 81360; Judgment was
13 issued on 03/31/21. Defendant then filed a "Motion to Appoint Counsel and Motion to
14 Modify and/or Correct Illegal Sentence: on 03/25/21. The District Court denied
15 Defendant's Motion in an Order dated 4/14/2021. The Order stated, in pertinent part:

16 This Court finds and concludes that the Defendant's claim that his sentence is
17 illegal, lacks merit, and is belied by the record. Defendant's claims that the State
18 violated his rights, misrepresented the statutes, maliciously rewrote the animal
19 cruelty statute, and maliciously prosecuted the Defendant, are all belied by the
20 record. Defendant has failed to set forth any basis for appointment of counsel.
21 Additionally, the Defendant's exact same arguments were previously denied by
22 this Court when Defendant's Petition for Writ of Habeas Corpus was denied in
23 A-20-810466-W. Much of the Court's Order from that case (Order dated
24 5/5/20), has been set forth herein, but for completeness, the Court adapts and
25 incorporates that Order herein by reference.

26
27 Based upon the foregoing, this Court finds and concludes that Defendant's
28 Motion for Appointment of Attorney and Motion to Modify Illegal Sentence lack
merit and are belied by the record. Defendant has failed to meet his burden in
establishing that his Due Process rights or any other rights were violated. The
Court finds no good cause to appoint counsel pursuant to NRS 34.750.
Consequently, and good cause appearing,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Defendant's
Motion for Appointment of Attorney and Motion to Modify Illegal Sentence are
both hereby DENIED.

See Order dated 4/14/21.

1 Subsequently, Defendant filed an Appeal of the 4/14/21 Order. On 8/30/21, the
2 Court of Appeals issued an Order of Affirmance and Remanding to Correct the
3 Judgment of Conviction. The Court of Appeals held:

4 ...it is clear that Blockson pleaded guilty to, and was sentenced in accordance
5 with, felony animal cruelty under NRS 574.100(6)(a). And because the district
6 court imposed Blockson's sentence in accordance with NRS 574.100(6)(a),
7 Blockson did not demonstrate that his sentence was illegal. Therefore, we
8 conclude the district court did not err by denying this claim.

9 We note, however, that the judgment of conviction contains a clerical
10 error. A judgment of conviction must include sentencing statutes. NRS
11 176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS
12 574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error "may be corrected
13 by the court at any time." NRS 176.565. Accordingly, we direct the district court,
14 upon remand, to enter an amended judgment of conviction that includes the
15 proper sentencing statutes. We therefore remand this matter to the district court
16 for the limited purpose of correcting the clerical error in the judgment of
17 conviction.

18 See Order of Affirmance and Remanding to Correct the Judgment of Conviction, filed
19 8/30/21, at pg. 2.

20 Before the Order of Affirmance and Remanding was issued by the Court of
21 Appeals, on August 3, 2021, Defendant mailed a "Motion to Overturn and Vacate
22 Conviction for Outrageous Government Conduct and Recusal of Judge Weiss and DA's
23 Office." The Motion appears to be postmarked "08/06/2021." The Clerk of Court's
24 Office received the Motion on August 9, 2021, and filed it on August 13, 2021. The State
25 filed an Opposition on August 31, 2021. Defendant mailed a Reply, which as received by
26 the Clerk of Court on 9/15/21 and e-filed on 9/16/21. Defendant signed "9 October,
27 2021."

28 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

The majority of Defendants' Motion appears to contain arguments almost
identical to those set forth in his Motion to Appoint Counsel and Motion to Modify
and/or Correct Illegal Sentence' filed on 03/25/21 and decided on 4/14/21. However,
Defendant adds a new argument that this Court should recuse itself because "District
Court Judge Wiese has twice demonstrated in his rulings that he is not capable of being
fair and impartial in this matter." (See Motion at pg. 8) Defendant argues that the
Court, in denying both his Writ and Motion to Modify, "pointed to the sentencing
transcripts to provide that [Blockson] entered a plea voluntarily to willful animal

1 cruelty.” Further, Defendant alleges that this Court refused to acknowledge the law
2 under *Edwards v. State*, and ignored the admonishment of rights for animal cruelty
3 which “proved [Blockson] was maliciously prosecuted.” Further, Defendant argues that
4 this Court apparently did not send Defendant a copy of the 4/14/21 Order, which
5 Defendant alleges was in hopes that the 30 days for him to file a notice of appeal would
6 lapse.

7 Additionally, Defendant requests that the District Attorney’s Office also recuse
8 itself. Defendant argues that “everyone knows what’s going on [,][h]owever all officers
9 of the court including the judge have turned a blind eye to the travesty and
10 fundamental unfairness that is unfolding in their presence.” (See Motion at pg. 8).
11 Defendant asserts, “We are here because of what the Chief Deputy District Attorney did
12 and Judge Wiess is covering up.” *Id.* Finally, Defendant requests that, in addition to
13 the recusals/removals, his sentenced be overturned and he be released from custody.

14 In Opposition, the State argues that Defendant’s claims regarding the felony
15 being a misdemeanor and government misconduct are procedurally barred by the law
16 of the case and res judicata. Defendant’s claims regarding government misconduct and
17 the charge being a misdemeanor have already been ruled on by the Court of Appeals of
18 the State of Nevada on 3/5/21. More recently, when affirming this Court’s denial of
19 Defendant’s Motion to Correct Illegal Sentence, the Court of Appeals held the
20 description of the crime sufficient, and that “it is clear that Blockson pleaded guilty to,
21 and was sentenced in accordance with, felony animal cruelty under NRS 74.100(6)(a).”

22 The State also argues that Defendant’s claim is barred by res judicata. The
23 decisions of the district court are final decisions absent a showing of changed
24 circumstances, and relitigation of claims is barred by the doctrine of res judicata. See
25 *Mason v. State*, 206 S.W.3d 869, 875 (Ark. 2005) (recognizing the doctrine’s
26 applicability in the criminal context); see also *York v. State*, 342 S.W. 528, 553 (Tex.
27 Crim. Appl. 2011). Accordingly, by simply continuing to file motions with the same
28 arguments, his motion is barred by the doctrines of the law of the case and res judicata.
Id.; *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Defendant relitigates
these same issues without presenting any changed circumstances. Thus, res judicata
bars Defendant’s claims regarding the representation of the statute and government
conduct. Additionally, the claims Defendant seeks to litigate necessitate either a direct

1 appeal or a petition for writ of habeas corpus, and given that this motion constitutes
2 neither of the two methods, this the State asks that the Court deny Defendant's motion.

3 With regard to Defendant's request that this Court recuse itself, the State argues
4 that Defendant fails to substantiate a proper reason for the recusal. This Court ruling
5 against Defendant is insufficient evidence to prove personal bias. Defendant
6 additionally claims that the Court was "sitting on the order." This claim is belied by the
7 record, as the order was filed on April 14, 2021. As Defendant presents no cognizable
8 grounds for recusal, this Court should deny the Defendant's request for the Court's
9 recusal.

10 As to Defendant's request that the District Attorney's Office be recused, the State
11 argues that the legal standard required is impossible for Defendant to meet. And, while
12 Defendant claims that the Clark County District Attorney's Office engaged in malicious
13 prosecution, both this Court and the Court of Appeals for the State of Nevada rejected
14 his arguments.

15 In Reply, Defendant states he filed the instant Motion so that his claims of
16 outrageous government conduct/malicious prosecution could be heard. Defendant
17 claims that he has "been stone-walled and silenced," and that the suggestion his claims
18 should be dismissed is ludicrous. Moreover, Defendant states, "We all have the
19 admonishment of rights for animal cruelty that is so damning that the Court and the
20 DA can't even acknowledge its existence. Shame! You shame America and the State of
21 Nevada." Further, Defendant agrees that there is nothing new in his argument, but
22 states "only the evidence that the DA has ignored," and that he can challenge an illegal
23 sentence at any time.

24 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

25 This Court finds and concludes that Defendant's Motion makes the exact same
26 arguments as he previously raised in his post-conviction PWHC, and in his Motion to
27 Modify or Correct Illegal Sentence. In all of his pleadings, Defendant claims that his
28 sentence on Count 1 is illegal because Cruelty to Animals should have been punished as
a misdemeanor rather than a Category D felony, and that the State "rewrote" the
animal cruelty statute in all of their filed documents with malicious intent to prosecute.
The Court notes that Defendant does not wish to withdraw his plea.

NRS 574.100 states in pertinent part the following:

NRS 574.100 Torturing, overdriving, injuring or abandoning animals; failure to provide proper sustenance; requirements for restraining dogs and using outdoor enclosures; horse tripping; penalties; exceptions.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

....

6. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

....

(NRS 574.100).

According to the Judgment of Conviction (Plea of Guilty), the Defendant was convicted of COUNT 1-CRUELTY TO ANIMALS (Category D Felony) in violation of NRS 574.100(1)(a).

In reviewing the Guilty Plea Agreement signed by the Defendant, and filed 12/21/18, it is clear that the Defendant was pleading guilty to COUNT 1- CRUELTY TO ANIMALS (Category D Felony – NRS 574.100.1a – NOC 55977), and the parties stipulated on Count 1 to a sentence of “nineteen (19) to forty-eight (48) months in the Nevada Department of Corrections.” (See GPA filed 12/21/18).

Most importantly, the Information filed 12/10/18, which was attached to the Guilty Plea Agreement, specifically alleged with regard to Count 1, that Defendant “did willfully, unlawfully, maliciously and feloniously torture or unjustifiably maim, mutilate or kill a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or by failing to get medical treatment for said dog.” (See Information at pg. 2).

This Court previously found that the “willful and malicious” charging language was contained in the Information, and the Defendant clearly acknowledged that he was pleading to a category D felony in that regard. Additionally, there was a “stipulated sentence” of 19-48 months in prison relating to that charge.

When Mr. Blockson pled guilty, at the time of his arraignment, pursuant to the GPA, he was canvassed in part as follows:

1 All right. Before I can accept your plea of guilty, I have to go through the
2 Information with you to make sure that there's a factual basis. It says on
3 or about the fourth day of April 2018 in Clark County, Nevada, contrary to
4 the laws of the State of Nevada, on Count One, you did willfully,
5 unlawfully, maliciously and feloniously torture or unjustifiably maim,
6 mutilate or kill a Pitbull dog by shooting or stabbing or cutting said dog
7 and/or failing to get medical treatment for said dog.

8 Count Two, ownership or possession of a firearm by a prohibited person,
9 you did willfully, unlawfully and feloniously own or have possession
10 and/or under your custody or control a firearm, to wit, a Ruger .357
11 revolver bearing serial number 575-15259, the Defendant being a
12 convicted felon having in 1996 being -- been convicted of possession of a
13 controlled substance with intent to sell in case C135719 in the Eighth
14 Judicial Court, a felony under the laws of the State of Nevada.

15 Did you do those things?

16 THE DEFENDANT: Yes, sir.

17 (See Transcript of Hearing, December 21, 2018, at pgs. 7-8)

18 NRS 574.100(6) states in relevant part that a person who "willfully and
19 maliciously" violates NRS 574.100(1)(a) "is guilty of a category D felony." The
20 Petitioner's argument that he was not charged with a violation of NRS 574.100(1) is
21 belied by the record, as the Information alleges this violation, and indicates that he was
22 being charged with the Category D felony portion of the statute. This Court previously
23 found that the Information complied with NRS 173.075.

24 At the time of his Arraignment, the Defendant was specifically asked if he had
25 read and understood the Guilty Plea Agreement, as follows:

26 THE COURT: In looking at the Guilty Plea Agreement, it looks like you
27 signed it on page 6, dated December 21; did you sign it today?

28 THE DEFENDANT: Yes, sir.

THE COURT: Did you have a chance to read it? Did you understand it
before you signed it?

THE DEFENDANT: Yeah, I understood.

THE COURT: Okay. You had a chance to talk to Mr. Troiano about it and
he answered any questions you had about it?

THE DEFENDANT: Who is that?

THE COURT: This attorney standing next to you.

THE DEFENDANT: Oh, yeah. I talked to him.

THE COURT: Do you understand that by signing the Guilty Plea
Agreement you're agreeing that you read it and understood it; correct?

THE DEFENDANT: That's -- that's correct, sir.

THE COURT: You understand that by signing it you're giving up
important Constitutional rights like right to go to trial, confront your
accuser, to present evidence on your own behalf; do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are you currently under the influence of any alcohol,
3 medication, narcotics or any substance that might affect your ability to
understand these documents or the process that we're going through?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you currently suffering from any emotional or physical
distress that's caused you to enter this plea?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you understand that the range of punishment for this --
these charges as to Count One, it's up to one to four years and up to
8 \$5,000 fine, and Count Two is up to six years and up to a \$5,000 fine; do
you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that sentencing is strictly up to the
Court, nobody can promise you probation, leniency or any special
treatment?

11 THE DEFENDANT: I understand.

12 THE COURT: Do you have any questions that you want to ask of me, your
attorney or the State before we go forward?

13 THE DEFENDANT: Are you the sentencing judge?

14 THE COURT: Am I what?

15 THE DEFENDANT: The sentencing judge --

16 THE COURT: I am in your case.

17 MR. TROIANO: Actually, yeah, he is.

18 THE COURT: And your case is assigned to Department 30, so I will be the
sentencing judge, but only after you do a PSI.

19 THE DEFENDANT: All right.

20 THE COURT: Any other questions?

21 THE DEFENDANT: No, sir.

22 THE COURT: Has your attorney made any promises to you that are not
contained in the Guilty Plea Agreement?

23 THE DEFENDANT: No.

24 THE COURT: Based on all the facts and circumstances, are you satisfied
with the services of your attorney?

25 THE DEFENDANT: Yes.

26 (See Transcript from Arraignment, December 21, 2018, at pgs. 5-7).

27 As the Court of Appeals noted in its order, "the judgment of conviction contains
28 a clerical error. A judgment of conviction must include sentencing statutes. NRS
176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS
574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error 'may be corrected by the
court at any time.' NRS 176.565." (See Court of Appeals Order, at pg. 2). Because the
arguments in the instant motion, (at least relating to overturning and vacating the
Defendant's conviction), have already been addressed and affirmed by the Nevada

1 Court of Appeals, that Court's decision is the law of the case. This Court will comply
2 with the Court of Appeals Remand, and an Amended Judgment of Conviction will be
3 entered forthwith, including the appropriate sentencing statutes.

4 With regard to the Defendant's request to remove the District Attorney's Office
5 from the case, the Court finds no basis for this request, and it is summarily denied.

6 With regard to the Defendant's request for "recusal" of Judge Wiese, this Court
7 notes that, "A judge is presumed to be impartial, and the party asserting the challenge
8 carries the burden of establishing sufficient factual grounds warranting
9 disqualification." *Las Vegas Sands Corp. v. Eighth Jud. Dist. Ct.*, 2016 WL 2842901
10 (unpublished, Nev. 2016), citing *Rippo v. State*, 113 Nev. 1239, 1248, 946 P.2d 1017,
11 1023 (1997). "Nevada has two statutes governing disqualification of district court
12 judges. NRS 1.230 lists substantive grounds for disqualification, and NRS 1.235 sets
13 forth a procedure for disqualifying district court judges." *Towbin Dodge LLC v. Eighth
14 Judicial Dist. Ct.*, 121 Nev. 251, 255, 112 P.3d 1063, 1066 (2005). NRS 1.230 reads as
15 follows:

16 **NRS 1.230 Grounds for disqualifying judges other than Supreme
17 Court justices or judges of the Court of Appeals.**

18 1. A judge shall not act as such in an action or proceeding when the judge
19 entertains actual bias or prejudice for or against one of the parties to the action.

20 2. A judge shall not act as such in an action or proceeding when implied
21 bias exists in any of the following respects:

22 (a) When the judge is a party to or interested in the action or proceeding.

23 (b) When the judge is related to either party by consanguinity or affinity
24 within the third degree.

25 (c) When the judge has been attorney or counsel for either of the parties in
26 the particular action or proceeding before the court.

27 (d) When the judge is related to an attorney or counselor for either of the
28 parties by consanguinity or affinity within the third degree. This paragraph does
not apply to the presentation of ex parte or uncontested matters, except in fixing
fees for an attorney so related to the judge.

3. A judge, upon the judge's own motion, may disqualify himself or herself
from acting in any matter upon the ground of actual or implied bias.

4. A judge or court shall not punish for contempt any person who proceeds
under the provisions of this chapter for a change of judge in a case.

5. This section does not apply to the arrangement of the calendar or the
regulation of the order of business.

NRS 1.235, which sets for the procedure for disqualifying a district court judge, reads in
part as follows:

NRS 1.235 Procedure for disqualifying judges other than Supreme Court justices or judges of the Court of Appeals.

1. Any party to an action or proceeding pending in any court other than the Supreme Court or the Court of Appeals, who seeks to disqualify a judge for actual or implied bias or prejudice must file an affidavit specifying the facts upon which the disqualification is sought. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. Except as otherwise provided in subsections 2 and 3, the affidavit must be filed:

(a) Not less than 20 days before the date set for trial or hearing of the case; or

(b) Not less than 3 days before the date set for the hearing of any pretrial matter.

2. Except as otherwise provided in this subsection and subsection 3, if a case is not assigned to a judge before the time required under subsection 1 for filing the affidavit, the affidavit must be filed:

(a) Within 10 days after the party or the party's attorney is notified that the case has been assigned to a judge;

(b) Before the hearing of any pretrial matter; or

(c) Before the jury is empaneled, evidence taken or any ruling made in the trial or hearing, whichever occurs first. If the facts upon which disqualification of the judge is sought are not known to the party before the party is notified of the assignment of the judge or before any pretrial hearing is held, the affidavit may be filed not later than the commencement of the trial or hearing of the case.

3. If a case is reassigned to a new judge and the time for filing the affidavit under subsection 1 and paragraph (a) of subsection 2 has expired, the parties have 10 days after notice of the new assignment within which to file the affidavit, and the trial or hearing of the case must be rescheduled for a date after the expiration of the 10-day period unless the parties stipulate to an earlier date.

4. At the time the affidavit is filed, a copy must be served upon the judge sought to be disqualified. Service must be made by delivering the copy to the judge personally or by leaving it at the judge's chambers with some person of suitable age and discretion employed therein.

5. Except as otherwise provided in subsection 6, the judge against whom an affidavit alleging bias or prejudice is filed shall proceed no further with the matter and shall:

(a) If the judge is a district judge, immediately transfer the case to another department of the court, if there is more than one department of the court in the district, or request the judge of another district court to preside at the trial or hearing of the matter;

(b) If the judge is a justice of the peace, immediately arrange for another justice of the peace to preside at the trial or hearing of the matter as provided pursuant to NRS 4.032, 4.340 or 4.345, as applicable; or

(c) If the judge is a municipal judge, immediately arrange for another municipal judge to preside at the trial or hearing of the matter as provided pursuant to NRS 5.023 or 5.024, as applicable.

6. A judge may challenge an affidavit alleging bias or prejudice by filing a written answer with the clerk of the court within 5 judicial days after the

1 affidavit is filed, admitting or denying any or all of the allegations contained in
2 the affidavit and setting forth any additional facts which bear on the question of
3 the judge's disqualification. The question of the judge's disqualification must
thereupon be heard and determined by another judge agreed upon by the parties
or, if they are unable to agree, by a judge appointed:

4 (a) If the judge is a district judge, by the presiding judge of the judicial
5 district in judicial districts having more than one judge, or if the presiding judge
6 of the judicial district is sought to be disqualified, by the judge having the
greatest number of years of service;

7 (b) If the judge is a justice of the peace, by the presiding judge of the justice
8 court in justice courts having more than one justice of the peace, or if the
presiding judge is sought to be disqualified, by the justice of the peace having the
greatest number of years of service;

9 (c) If the judge is a municipal judge, by the presiding judge of the municipal
10 court in municipal courts having more than one municipal judge, or if the
presiding judge is sought to be disqualified, by the municipal judge having the
greatest number of years of service; or

11 (d) If there is no presiding judge, by the Supreme Court.

12 It should be noted that "a trial judge has a duty to sit and 'preside to the
13 conclusion of all proceedings, in the absence of some statute, rule of court, ethical
14 standard, or other compelling reason to the contrary," and "A judge shall hear and
15 decide matters assigned to the judge except those in which disqualification is required."
16 *Millen v. Eighth Judicial Dist Ct.*, 122 Nev. 1245, 1253, 148 P.3d 694 (2006). The
17 Nevada Supreme Court has further held that "A judge is presumed to be unbiased, and
18 generally, 'the attitude of a judge toward the attorney for a party is largely irrelevant.'"
19 *Millen* at pg. 1254, citing *Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 632,
20 635, 940 P.2d 127, 128 (1997). "The general rule of law is that what a judge learns in
21 his official capacity does not result in disqualification." *Kirksey v. State*, 112 Nev. 980,
22 923 P.2d 1102, citing to *Goldman v. Bryan*, 104 Nev. 644, 764 P.2d 1296 (1988).
23 Additionally, "Because a judge is presumed to be impartial, 'the burden is on the party
24 asserting the challenge to establish sufficient factual grounds warranting
25 disqualification.'" *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011), citing
26 *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988). Finally, the Court
27 has indicated that "disqualification for personal bias requires 'an extreme showing of
28 bias that would permit manipulation of the court and significantly impede the judicial
process and the administration of justice.' Generally, disqualification for personal bias
or prejudice or knowledge of disputed facts will depend on the circumstances of each
case." *Millen* at pg. 1254-1255, citing *Hecht* at pg. 636.

1 In the Nevada Code of Judicial Conduct, some terms are defined. “Impartial” is
2 one of those terms, and is defined as follows:

3 “Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice
4 in favor of, or against, particular parties or classes of parties, as well as
5 maintenance of an open mind in considering issues that may come before a
6 judge.” (NCJC, Terminology).

7 Rule 1.2 indicates that “A judge shall act at all times in a manner that promotes
8 public confidence in the independence, integrity, and impartiality of the judiciary and
9 shall avoid impropriety and the appearance of impropriety.” (NCJC, Rule 1.2, Canon 1)

10 Rule 2.2 reads in part as follows:

11 **Rule 2.2. Impartiality and Fairness.** A judge shall uphold and apply the
12 law, and shall perform all duties of judicial office fairly and impartially.

13 [1] To ensure impartiality and fairness to all parties, a judge must be
14 objective and open-minded.

15 [2] Although each judge comes to the bench with a unique background and
16 personal philosophy, a judge must interpret and apply the law without regard to
17 whether the judge approves or disapproves of the law in question.

18 [3] When applying and interpreting the law, a judge sometimes may make
19 good-faith errors of fact or law. Errors of this kind do not violate this Rule.

20

21 (NCJC, Rule 2.2, Canon 2)

22 Rule 2.3 reads in part as follows:

23 **Rule 2.3. Bias, Prejudice, and Harassment.**

24 (A) A judge shall perform the duties of judicial office, including administrative
25 duties, without bias or prejudice.

26 (B) A judge shall not, in the performance of judicial duties, by words or conduct
27 manifest bias or prejudice, or engage in harassment, including but not
28 limited to bias, prejudice, or harassment based upon race, sex, gender,
religion, national origin, ethnicity, disability, age, sexual orientation, marital
status, socioeconomic status, or political affiliation, and shall not permit
court staff, court officials, or others subject to the judge’s direction and
control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from
manifesting bias or prejudice, or engaging in harassment, based upon
attributes including, but not limited to, race, sex, gender, religion, national
origin, ethnicity, disability, age, sexual orientation, marital status,
socioeconomic status, or political affiliation, against parties, witnesses,
lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers
from making legitimate reference to the listed factors, or similar factors,
when they are relevant to an issue in a proceeding.

1 (NCJC, Rule 2.3, Canon 2)

2
3 Rule 2.4 reads in part that “A judge shall not permit family, social, political,
4 financial, or other interests or relationships to influence the judge’s judicial conduct or
5 judgment.” (NCJC, Rule 2.4, Canon 2)

6 Rule 2.11(A) of the Nevada Rules of Judicial Conduct, indicates that “A judge
7 shall disqualify himself or herself in any proceeding in which the judge’s impartiality
8 might reasonably be questioned. . .” (NCJC, Rule 2.11, Canon 2). The Comments to
9 this rule contain the following statement: “Under this Rule, a judge is disqualified
10 whenever the judge’s impartiality might reasonably be questioned, regardless of
11 whether any of the specific provisions of paragraphs (A)(1) through (6) apply.”

12 In the case of *City of Las Vegas Downtown Redevelopment Agency v. Eighth*
13 *Judicial Dist. Ct.*, 116 Nev. 640, 5 P.3d 1059 (2000), the Nevada Supreme Court
14 addressed a request to recuse Judge Mark Denton from an eminent domain case. The
15 Court referenced NCJC Canon 3(E)(1), which indicated that “A judge shall disqualify
16 himself or herself in a proceeding in which the judge’s impartiality might reasonably be
17 questioned, including but not limited to instances where: (a) the judge has a personal
18 bias or prejudice concerning a party or a party’s lawyer, . . .” *Redevelopment Agency*
19 at pg. 644. The Court went on to state the following, “[W]e have held that whether a
20 judge’s impartiality can reasonably be questioned is an objective question that this
21 court reviews as a question of law using its independent judgment of the undisputed
22 facts. *Redevelopment Agency*, at pg. 644, citing *In re Varain*, 114 Nev. 1271, 1278, 969
23 P.2d 305, 310 (1998).

24 In *People for the Ethical Treatment of Animals (PETA) v. Bobby Berosini*, 111
25 Nev. 431, 894 P.2d 337 (1995), overruled on other grounds by *Towbin Dodge LLC v.*
26 *Eighth Judicial Dist Court*, the Nevada Supreme Court similarly stated, “the test for
27 whether a judge’s impartiality might reasonably be questioned is objective; whether a
28 judge is actually impartial is not material.” *Berosini* at pg. 436. The Court referenced
NCJC Canon 2, which provided that “a judge shall avoid impropriety and the
appearance of impropriety in all of the judge’s activities,” and indicated that “the test
for appearance of impropriety is whether the conduct would create in reasonable minds
a perception that the judge’s ability to carry out judicial responsibilities with integrity,

1 impartiality and competence is impaired.” *Berosini* at pg. 435-436. The Court
2 referenced 28 U.S.C. §455(a) a federal statute, designed to promote public confidence
3 in the integrity of the judicial process, and referenced a case which indicated that “The
4 goal of section 455(a) is to **avoid even the appearance of partiality.**” *Berosini* at
5 pg. 436, (emphasis added), citing *Liljeberg v. Health Services Acquisition Corp*, 486
6 U.S. 847, 108 S.Ct. 2094, 100 L.Ed.2d 855 (1988). Another federal court had stated,
7 “Under §455(a) a judge has a continuing duty to recuse before, during, or, in some
8 circumstances, after a proceeding, if the judge concludes that sufficient factual grounds
9 exist to cause an objective observer reasonably to question the judge’s impartiality...
10 The standard is purely objective. The inquiry is limited to outward manifestations and
11 reasonable inferences drawn therefrom.” *Berosini*, at pg. 437, citing *United States v.*
12 *Cooley*, 1 F.3d 985, 992-993 (10th Cir. 1993). The Court in *Berosini*, indicated that the
13 question before the Court was “whether a reasonable person, knowing all the facts,
14 would harbor reasonable doubts about Judge Lehman’s impartiality.” The Court
15 concluded that they had to grant the motion to disqualify Judge Lehman, “to avoid
16 even the appearance of impropriety and to promote public confidence in the integrity of
17 the judicial process. We conclude that a reasonable person knowing all the facts, would
18 harbor reasonable doubts about Judge Lehman’s impartiality.” *Berosini*, at pg. 438.

19 In another Nevada Supreme Court case, the Court stated, “remarks of a judge
20 made in the context of a court proceeding are not considered indicative of improper
21 bias or prejudice unless they show that the judge has closed his or her mind to the
22 presentation of all the evidence.” *Schubert v. Eighth Judicial Dist. Ct.*, 128 Nev. 933,
23 381 P.3d 660 (2012).

24 In the *Hecht* case, Hecht filed a motion to disqualify Justice Cliff Young from
25 participating in an appellate decision, based on the argument that he allegedly
26 harbored a bias against Hecht’s counsel, Kermitt Waters. This alleged bias stemmed
27 from statements made by Justice Young during a Washoe County Bar Association
28 Lunch, during a campaign, where Steve Jones was running against Justice Young.
There were comments about campaign financing that Jones had received from Kermitt
Waters, and Justice Young suggested that it appeared that Mr. Waters had exceeded
the allowable limit of contributions to Judge Jones. Hecht argued that these
statements “amounted to an accusation that Waters had committed a crime, and as

1 such [were] evidence of Justice Young’s actual or implied bias toward Waters.” *Hecht*
2 at pg. 634.

3 The Court stated that it had “consistently held that the attitude of a judge toward
4 the attorney for a party is largely irrelevant.” *Hecht* at pg. 635. The Court cited to its
5 decision in *Ainsworth v. Combined Ins. Co.*, 105 Nev. 237, 259, 774 P.2d 1003, 1019
6 (1989), in which the Court held that “generally, an allegation of bias in favor of or
7 against counsel for a litigant states an insufficient ground for disqualification because it
8 is not indicative of extrajudicial bias against the party.” The Court indicated that the
9 purpose for that policy was that because Nevada is a small state, with a limited bar
10 membership, it is “inevitable that frequent interactions will occur between the
11 members of the bar and the judiciary.” *Hecht* at pg. 635-636. The Court further stated
12 that “we continue to believe that to permit a justice or judge to be disqualified on the
13 basis of bias for or against a litigant’s counsel in cases in which there is anything but an
14 extreme showing of bias would permit manipulation of the court and significantly
15 impede the judicial process and the administration of justice.” *Id.* While the Canon
16 states that “a judge can be disqualified for animus toward an attorney, situations where
17 such a disqualification has been found are exceedingly rare, and non-existent in
18 Nevada.” *Id.*, citing Richard E. Flamm, *Judicial Disqualification* §4.4.4, at 124 (1996).
19 Further, “To warrant judicial disqualification . . . the judge’s bias toward the attorney
ordinarily must be extreme. Situations in which judges have manifested such extreme
bias toward an attorney are exceedingly rare.” *Id.*

20 In *Hecht*, the Court cited to *Valladares v. District Court*, 112 Nev. 79, 910 P.2d
21 256 (1996), in which Judge Connie Steinheimer’s campaign literature was very critical
22 of then District Judge Lew Carnahan. Such letters made disparaging remarks about
23 Carnahan’s ethics, honesty, and competency. Steinheimer won the election, and
24 Carnahan appeared as an attorney for a party before her, and requested that she recuse
25 herself. Steinheimer refused, and it was taken to the Supreme Court, which stated that
26 “Judge Steinheimer does not possess an actual or apparent bias against Carnahan and
therefore need not recuse herself.” *Hecht* at pg. 636, citing *Valladares* at 84.

27 The Court also cited to *Sonner v. State*, where a prosecutor represented a judge
28 up to the day the prosecutor was to begin trying a death penalty case in front of the
judge. The Court held that even though the prosecutor had represented the judge in an

1 unrelated matter, until the day before trial, “there was no reason to conclude that the
2 attorney-client relationship between the judge and the prosecutor in any way affected
3 the judge’s ability to be fair and impartial.” *Hecht* at pg. 636-637, citing *Sonner v.*
4 *State*, 112 Nev. 1328, 930 P.2d 707 (1996).

5 The Court in *Hecht*, indicated that “the facts presented in the case at bar do not
6 rise to anything near the level warranting Justice Young’s disqualification. The
7 comments made by Justice Young were off-the-cuff remarks made during an election
8 campaign; and they were not nearly as serious as those made in *Ainsworth* and
9 *Valadares*, in which the judges made egregious remarks about counsel for a party, or
10 the situation in *Sonner*. Justice Young’s comments were based upon the information
11 he had received and merely suggested that Waters may have engaged in impropriety. . .
12 Justice Young’s remarks do not show evidence of a bias toward Waters that would
13 mandate Justice Young’s disqualification in this matter.” *Hecht* at pg. 637. The Court
14 concluded its opinion by stating that “Before a justice or judge can be disqualified
15 because of animus toward a party’s attorney, egregious facts must be shown.” *Hecht* at
pg. 638.

16 In *Ainsworth v. Combined Ins. Co. of America*, 105 Nev. 237, 774 P.2d 1003
17 (1989), the Court addressed a motion requesting disqualification of former Chief
18 Justice Gunderson. Combined argued that 1) he had a “disqualifying bias or prejudice
19 for and against the litigants and their counsel;” 2) his impartiality was subject to
20 question so as to create a “disqualifying appearance of impropriety;” and 3) his alleged
21 partiality denied Combined its right to a fair hearing before an impartial tribunal. *Id.*,
22 at 253. Combined argued that the appeal was handled in a manner contrary to the
23 Court’s normal procedure, but the Court summarily concluded that the Court followed
24 its normal procedure, and nothing relating to that issue demonstrated any prejudice,
25 bias or appearance or impropriety stemming from an extrajudicial source. *Id.*, at 255-
26 256. Combined argued that during oral argument, Gunderson “(1) ‘openly ridiculed’
27 and was uncivil and hostile to Combined and its attorney; (2) ‘acted not as a member of
28 an appellate court but as an advocate for the appellant’; (3) ‘expressed the opinion that
Combined’s very policy was an act of bad faith;’ and (4) expressed an ‘animus’ that was
not ‘confined to Combined and its counsel but seemingly reached the insurance
industry as a whole.’” *Id.*, at 256. The Supreme Court apparently reviewed the

1 recording of the oral argument, and concluded that the arguments were legally
2 insufficient to support the disqualification, but were also belied by the “tone, tenor and
3 substance” of Justice Gunderson’s remarks. *Id.*, at pgs. 256-257. The Court held that
4 his conduct was “well within the acceptable boundaries of courtroom exchange.” *Id.*, at
5 257, citing *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1316 (2nd Cir. 1988).
6 The Court held that “Although he may have expressed strong views regarding the
7 separate, additional facts in the record evidencing the oppressive nature of Combined’s
8 conduct, his expression of those views at the oral argument exhibited no bias stemming
9 from an extrajudicial source.” *Id.* at 257, citing *Goldman v. Bryan*, 104 Nev. 644, --, n.
10 6, 764 P.2d 1296, 1301 (1988); and citing also to *In re Guardianship of Styer*, 24 Ariz.
11 App. 148, 536 P.2d 717 (1975) “(Although a judge may have a strong opinion on merits
12 of a cause or a strong feeling about the type of litigation involved, the expression of
13 such views does not establish disqualifying bias or prejudice.)” Apparently Justice
14 Gunderson made some comments about Combined and its counsel, which may have
15 indicated a preconceived bias. The Court indicated that “although former Chief Justice
16 Gunderson’s response candidly acknowledges that he harbored preconceived, negative
17 impressions respecting the legal abilities of one of Combined’s counsel, his response
18 also indicated that those impressions were based upon his perception of counsel’s prior
19 ‘work product and performance in this court.’ Thus, those perceptions constitute
20 neither an extrajudicial, nor a disqualifying bias.” *Id.*, at pg. 258, citing *Goldman v.*
21 *Bryan*, 104 Nev. 644, 764 P.2d 1296 (1988); *In re Cooper* 821 F.2d 833, 838-42 (1st Cir.
22 1987) (a judge is not required to ‘mince words’ respecting counsel who appear before
23 him; it is a judge’s job to make credibility determinations, and when he does so, he does
24 not thereby become subject, legitimately, to charges of bias.) The Court said, that to
25 whatever extent “Gunderson’s response may evidence negative, personal impressions
26 about Combined’s counsel, based upon counsel’s prior legal associations, his
27 performance on the bar examination or his marital situation, those impressions were
28 formed during the course of his judicial and administrative duties as a Justice and
Chief Justice on this court.” *Id.*, at pg. 258, citing *United States v. Conforte*, 457
F.Supp. 641, 657 (D.Nev. 1978) (where origin of judge’s impressions was inextricably
bound up with judicial proceedings, judge’s alleged bias did not stem from an
extrajudicial source), modified on other grounds, 624 F.2d 869 (9th Cir.), cert denied,

1 449 U.S. 1012, 101 S.Ct. 568, 66 L.Ed.2d 470 (1980). Finally, the Court stated that
2 “those negative impressions extended only to counsel for the litigant involved, not to
3 the litigant itself. Generally, an allegation of bias in favor of or against counsel for a
4 litigant states an insufficient ground for disqualification because it is not indicative of
5 extrajudicial bias against the party.” *Id.*, at pg. 259, citing *In re Petition to Recall*
6 *Dunleavy*, 104 Nev. 784, 769 P.2d 1271, 1275, citing *Gilbert v. City of Little Rock, Ark.*,
7 722 F.2d 1390, 1398-99 (8th Cir. 1983), cert denied, 466 U.S. 972, 104 S.Ct. 2347, 80
8 L.Ed.2d 820 (1984); *Davis v. Board of School Com’rs of Mobile County*, 517 F.2d 1044,
9 1050 (5th Cir. 1975). Ultimately, the Court found that there was no basis for
disqualification of Justice Gunderson.

10 This Court acknowledges that several of the cases referenced herein, have been
11 reversed or modified for various reasons. This Court believes, however, that the
12 analysis contained in them is still good law, and is helpful and instructive in the present
13 case. This Court further acknowledges that most of the cases cited herein dealt with the
14 Nevada Code of Judicial Conduct which existed prior to the Code’s revision in 2009.
15 The Revised Nevada Code of Judicial Conduct became effective January 19, 2010,
16 containing somewhat different language, different section numbers, etc. This Court’s
17 reliance on the above-referenced case law, is consistent with the Nevada Supreme
18 Court’s recent reference to many of these same cases. In the unpublished case of
19 *Mkhitarian v. Eighth Judicial Dist. Ct.*, 2016 WL 5957647, 385 P.3d 48 (Nev., 2016,
unpublished), the Nevada Supreme Court stated the following analysis:

20 Rule 2.7 of the Nevada Code of Judicial Conduct (NCJC), provides that “[a]
21 judge shall hear and decide matters assigned to the judge, except when
22 disqualification is required by Rule 2.11 or other law.” Under Rule 2.11(A)(1) of
23 the NCJC, judicial disqualification is required “in any proceeding in which the
24 judge’s impartiality might reasonably be questioned, including when the judge
25 has a personal bias or prejudice concerning a party.” See also NRS 1.230 (“A
26 judge shall not act as such in an action or proceeding when the judge entertains
27 actual bias or prejudice for or against one of the parties to the action.”). ***The***
28 ***test under the NCJC to evaluate whether a judge’s impartiality***
might reasonably be questioned is an objective one – whether a
reasonable person knowing all of the facts would harbor reasonable
doubts about the judge’s impartiality. See *Ybarra v. State*, 127 Nev. 47,
51, 247 P.3d 269, 272 (2011). Disqualification for personal bias requires an
extreme showing of bias. *Millen v. Eighth Judicial Dist. Court*, 122 Nev. 1245,
1254, 148 P.3d 694, 701 (2006). Further, this court has generally recognized
that bias must stem from an “extrajudicial source,” something other than what

1 the judge learned from his or her participation in the case. *Rivero v. Rivero*, 125
2 Nev. 410, 439, 216 P.3d 213, 233 (2009), and that adverse judicial rulings during
3 the proceedings are not a basis to disqualify a judge. *In re Petition to Recall*
Dunleavy, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). . . .

4 *Id.*, (emphasis added).

5 In another recent Nevada Court of Appeals decision, also unpublished, the Court
6 set forth the same test in determining whether disqualification was warranted. The
7 Court of Appeals stated, “The test for whether a judge’s impartiality might reasonably
8 be questioned is objective and disqualification is required when ‘a reasonable person,
9 knowing all the facts, would harbor reasonable doubts about the judges impartiality.’”
10 *Bayouth v. State*, 2018 WL 2489862 (Nev.Ct.of App., 2018, unpublished).

11 In *Ybarra v. State*, 127 Nev. 47, 247 P.3d 269 (2011), the Nevada Supreme Court
12 again indicated that “the test for appearance of impropriety is whether the conduct
13 would create in reasonable minds a perception that the judge’s ability to carry out
14 judicial responsibilities with integrity, impartiality and competence is impaired.”
15 *Ybarra* at pg. 50, citing NCJC Canon 2A. The Court went on to indicate that the issue
16 that needed to be addressed was again, “**whether a reasonable person, knowing**
17 **all the facts, would harbor reasonable doubts about the judge’s**
18 **impartiality.**” *Ybarra* at pg. 51, (emphasis added), citing *PETA*, 111 Nev. at 438, 894
19 P.2d at 341 (additional citations omitted). In *Ybarra*, the Court cited to *People v.*
20 *Booker*, where the Defendant who was charged with a crime, argued that the judge
21 should have been disqualified because he had represented the victim’s father in a
22 divorce proceeding, and the appellate court could find no evidence in the record
23 suggesting that the trial judge was biased against the defendant. 224 Ill.App.3d 542,
24 166 Ill. Dec. 252, 585 N.E.2d 1274, 1284 (1992). Further, a judge in a small town, need
25 not disqualify himself merely because he knows one of the parties. *Ybarra* at pg. 52,
26 citing *Jacobson v. Manfredi*, 100 Nev. 226, 230, 679 P.2d 251, 254 (1984). In *Ybarra*,
the Court concluded that the prior representation by Judge Dobrescue would not cause
an objective person reasonably to doubt his impartiality. *Ybarra* at pg. 52.

27 This Court does not believe that any of the grounds set forth in NRS 1.230 apply,
28 as this Court has no bias or prejudice against the Defendant, and no basis for a
voluntary recusal. The Court is not sure whether the present Motion for Recusal of
Judge Wiese was intended to be a Motion for Disqualification, pursuant to NRS 1.235,

1 as it was called a Motion for Recusal and not called a Motion for Disqualification. If it
2 was intended to be a Motion for Disqualification under NRS 1.235, it is untimely
3 pursuant to NRS 1.235(1), as the statute appears to only apply “pre-trial.” An
4 “Affidavit,” as required by NRS 1.235 was not filed, nor served on the Court, and
5 consequently, there appears to be no reason to “challenge an affidavit alleging bias or
6 prejudice by filing a written answer with the clerk of the court within 5 judicial days
7 after the affidavit is filed.” This Court does not believe that an objective person would
8 reasonably doubt this Court’s impartiality, and consequently, the Court does not
9 believe that recusal, or disqualification would be appropriate.

9 **CONCLUSION AND ORDER.**

10 Based upon the foregoing, and good cause appearing,

11 **IT IS HEREBY ORDERED** that the Defendant’s Motion to Overturn and
12 Vacate Conviction for Outrageous Government Conduct and Recusal of Judge Wiese
13 and District Attorney’s Office for Clark County, Nevada, is hereby **DENIED**.

14 The Court requests that Counsel for the State prepare and process a Notice of
15 Entry of this Order.

16 Because this matter has been decided on the pleadings, the hearing set for
17 October 5, 2021, will be taken “off calendar,” and consequently, there is no need that
18 counsel or the parties appear.

19 Pursuant to the 8/30/21 Order of the Court of Appeals, an Amended Judgment
20 of Conviction will be filed forthwith.

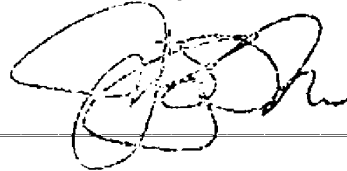
21 Because the Defendant’s Motion for Recusal could be construed as a Motion for
22 Disqualification, this Order will also be submitted to the Chief Judge, and if she
23 believes it should be considered a Motion for Disqualification, she may take whatever
24 action in that regard she believes is appropriate.

25 The Court further notes Defendant has filed a Motion and Order for
26 Transportation of Inmate for Court Appearance or in the Alternative for Appearance by
27 Telephone or Video Conference seeking personal appearance for the October 5, 2021,
28 hearing. Said motion is set for hearing on October 7, 2021, at 8:30 AM.

Because the Motion to Overturn and Vacate Conviction for Outrageous
Government Conduct and Recusal of Judge Wiese and District Attorney’s Office for
Clark County, Nevada, has been decided without oral argument and the October 5,

1 2021, hearing was vacated, Defendant's Motion for Transportation of Inmate for Court
2 Appearance or in the Alternative for Appearance by Telephone or Video Conference is
3 hereby deemed MOT. The hearing set for October 7, 2021, will be taken "off
4 calendar," and consequently, there is no need for counsel or the parties appear.

5
6 Dated this 4th day of October, 2021

7
8 A handwritten signature in black ink, appearing to read 'J. Wiese', is written over a horizontal line.

9
10 83B 60D C216 2354
11 Jerry A. Wiese
12 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-18-336552-1

7 vs

DEPT. NO. Department 30

8 Christopher Blockson

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 10/4/2021

15 Jason Makris

jason.makris@makrislegal.com

16 Steven Wolfson

pdmotions@clarkcountyda.com

17 Trisha Garcia

garciat@clarkcountycourts.us

18 Sandra Pruchnic

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19 Michelle Ramsey

ramseym@clarkcountycourts.us

20 Caesar Almase

Caeser@almaselaw.com

21 Kimberly Farkas

kimrcs@cox.net

Christopher Blockson NO. 50821

SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89010

FILED

OCT 05 2021

John J. Blum
CLERK OF COURT

District Court
Clark County, Nevada

The State of Nevada

Plaintiff

v.

Christopher Blockson

Defendant

CASE NO.: C-18-336552-1

DEPT. NO.: _____

DOCKET: _____

Supplemental Brief to Defendants Reply to State's Opposition
to Defendant's Motion to Overturn and Vacate Conviction For
Outrageous Government Conduct and Recusal of Judge Wiese and
District Attorney's Office For Clark County Nevada.

COMES NOW Defendant, Christopher Blockson, herein above respectfully
moves this Honorable Court for an _____

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

DATED: this 15 day of September, 2021

BY: Christopher Blockson
Christopher Blockson 50821
Defendant In Proper Personam

CLERK OF THE COURT

RECEIVED
OCT 04 2021

ADDITIONAL FACTS OF THE CASE:

The Nevada Court of Appeals recently ruled that the use of NRS 574.100(1)(a) on my judgement of conviction (JOC) is a typo. The Court of Appeals ordered that my JOC be remanded to District Court to change the sentencing statute on the JOC to NRS 574.100(6)(a). In that same order the Court of Appeals made the following statement regarding my malicious prosecution claim:

Blockson also claimed that the state maliciously prosecuted him. This claim fell outside the narrow scope of claims permissible in a motion to modify or correct a sentence. See *Edwards*, 112 Nev. at 708, 918 P.2d at 234. Therefore, we conclude the district court did not err by denying this claim."

At every step the courts have refused to acknowledge the existence of the Admonishment of Rights for Animal cruelty prepared by Chief Deputy DA Amy Ferrera that proves I was maliciously prosecuted. The intent throughout the entire admonishment is to make me believe that a violation of NRS 574.100(1)(a) is a Felony.

Amy Ferrera first called a violation of S(1)(a) a Felony in the criminal complaint. The admonishment explains why.

Chief Deputy DA Ferrera meticulously planned to violate my constitutional right to due

1 process from the onset of prosecution. Upon my
2 first appearance in custody in justice court I
3 was released. Amy Ferreira opted to release
4 me rather than charge me with the misde-
5 meanor authorized by the screeners within
6 the DA's office. Nine days later Amy Ferreira
7 filed the criminal complaint alleging that a
8 violation of MRS 574.100(1)(a) was a felony.
9 During that nine days Chief Ferreira decided
10 to violate my due process rights. Without the
11 admonishment of rights one would think
12 that the use of 5(1)(a) and not 5(6)(a)
13 was a clerical err.

14 Everyone involved helped Chief Ferreira get
15 away with it. My lawyer Michael Trione
16 pushed me to take the deal. I decided
17 to take the deal because everyone said
18 I would get habitual criminal if I did
19 not. Therefore, I pled to the felony bogus
20 charge because I had to.

21 Had Chief Deputy DA Ferreira not mis-
22 represented the Animal cruelty statute I
23 would have known that a violation of 5(1)(a)
24 was a misdemeanor.

25 There was no preliminary hearing. I waived
26 that hearing in exchange for the prosecutor
27 not opposing me remaining out on bail.

Argument

#1 All subsections hereafter referred to are from the cruelty to animals statute (NRS 574.100).

Chief Deputy DA Amy Ferreira wrote:

...having "willfully" and unlawfully committed an act of torture or unjustifiably maimed mutilated or killed an animal, and/or ...

(see Admonishment of Right For Animal cruelty attached to GPA as exhibit 3; First page, First paragraph, second sentence).

Truth in the Animal cruelty statute:

Paragraph one of the admonishment was intended to represent Nevada Revised Statute 574.100.1.2, 3, 5. The statute prohibits the conduct described. The prohibited conduct are all misdemeanors on the first and second violation unless punished under NRS 574.100.6 (a and b)

Analysis: Chief Ferreira does not accurately represent the cruelty to animal statute. Willful or not is the difference between a misdemeanor and a felony. Subsection (1)(a) does not have willful language. The word willful and the felony that it represents does not appear in the statute until 5(6)(a). I believe that Chief Ferreira

ADDITIONAL FACTS OF THE CASE:

wrote out § 1, 2, 3, 5 in their entirety in an effort to confuse me. I was only given 10 minutes to sign the deal before it was recorded. I was not supposed to notice or know the relevance of what inserted where it does not truthfully appear in the statute.

~~#1~~
#2; Chief Deputy DA Amy Ferreira wrote:

Any violation for torturing or unjustifiably maiming mutilating or killing an animal (Felony - NRS 574.100(1)(a) (see the Admonishment; second page, first paragraph, Bold heading).

Truth in the Animal Cruelty Statute:

Nevada Revised Statute 574.100. 7:

Except as otherwise provided in 6, a person who violates Subsections 1, 2, 3 or 5:

(a) For the first offense within the immediately preceding 7 years is guilty of a misdemeanor...

(b) For the second offense within the immediately preceding 7 years is guilty of a misdemeanor...

Analysis: Chief Ferreira does not accurately

represent the Animal cruelty statute. A violation of
§(1)(a) is a misdemeanor, not a Felony. Subsection
(6)(a) is intended to punish a willful violation
of §(1)(a) whether it be the first time or
not. However, to do so a violation of §(6)(a)
must be alleged.

#3 Chief Ferreira wrote:

(A) except as otherwise provided in (B) is a category
D Felony and shall be punished as provided
in NRS 193.130. (B) if the act was committ-
ed in order to threaten, intimidate, or
terrorize another person is a category C
Felony...

Truth in the Animal Cruelty Statute and Analysis:

Again Chief Ferreira does not accurately represent
the animal cruelty statute. These two sentences
are out of context. These two sentences are
identical to paragraphs (a) + (b) from §(6). They
are not found at all in §(1)(a). Chief Ferreira
has given the impression that the felonious
language of §(6) is found in §(1)(a) by joining
the bold heading of the paragraph with
paragraphs (A) and (B) from §(6).

1 #4

2 Chief Deputy RA Amy Ferreira wrote:

3
4 A violation of NRS 574.100(1)(g) is a Felony
5 regardless of the existence of prior
6 convictions, and any conviction under
7 NRS 574.100(1)(g) will be used to enhance
8 any subsection of NRS 574.100.

9 (see the Admonishment, page 2, First paragraph,
10 third sentence).

11 ~~NRS~~ Truth in the Animal Cruelty Statute:

12
13 NRS 574.100(7) (a, b) provide misdemeanors on
14 the first and second violation of §(1)(g).
15

16 Analysis:

17
18 Chief Ferreira again misrepresents the Animal
19 cruelty statute. A violation of §(1)(g) is a
20 misdemeanor pursuant to § 7(a-b). Any
21 violation of §(1)(g) is therefore not a felony.
22 A violation of §(1)(g) is "never" a felony unless
23 charged under § 6(a) or § 7(c).
24

25 #5

26 Chief Ferreira wrote:

1 First offense within 7 years (misdemeanor -
2 NRS 574.100, 1b-F/.2 / .3 / .5)
3 (see Admonishment of Rights; page 2, second
4 paragraph, bold heading).
5

6 Truth in the Animal Cruelty Statute:
7 NRS 574.100 (7)

8 Except as otherwise provided in 6, a person
9 who violates subsection 1, 2, 3 or 5:

10 (a) For the first offense within the
11 immediately preceding 7 years is
12 guilty of a misdemeanor.
13

14 Analysis:

15 Chief Ferrera has again misrepresented
16 the animal cruelty Statute. Chief Ferrera
17 omitted §(1)(a) from the list of offenses
18 enumerated in § 7(a) as misdemeanors on the
19 first offense. Clearly § 7 includes §(1)(a).
20 The obvious intent was to make me believe
21 that a violation of §(1)(a) was not a mis-
22 demeanor. Why? The answer is simple; I
23 was charged with a misdemeanor. There
24 were no witnesses and only me saying on
25 the jail phone that I shot the dog because
26 he attacked me. Ferrera wanted a Felony.
27

1 It was sloppy and arrogant work. However, I was
2 never supposed to question the legality of
3 the plea deal. I was not given a copy of
4 the deal. I had to take the deal or face
5 habitual treatment.

6
7 #6; Chief Deputy DA Ferreira wrote:

8
9 Second offense within 7 years (misdemeanor
10 - NRS 574.100.1b-F/1.2/1.3/1.5);
11 (See Admonishment; second page; 3rd paragraph,
12 ~~First~~ bold heading).
13

14 Truth in the Animal Cruelty Statute:

15
16 NRS 574.100(7):

17 Except as otherwise provided in 6, a
18 person who violates 1, 2, 3 or 5:

19 (b) For the second offense within
20 the immediately preceding 7 years
21 is guilty of a misdemeanor...

22
23 Analysis: Ms Ferreira also omitted subsection
24 (1)(a) from the list of offenses enumerated
25 in (7)(b) a misdemeanors on the second
26 offense. The obvious intent was to make me
27 believe that a violation of 5(1)(a) was not a

28

1 misdemeanor.

2 #7

3 Chief Deputy DA Amy Ferrera wrote:

4

5 Third offense within 7 years (Felony -

6 NRS 574.100.1b - F/ 2/ 3/ 5:

7 (See second page of the Admonishment,
8 Fourth paragraph, bold heading)

9

10 Truth in the statute:

11 NRS 574.100.7:

12 Except as otherwise provided in § 6, a
13 person who violates Subsections 1, 2, 3 or 5:

14 (c) For the third or subsequent offense
15 within the immediately preceding 7
16 years is guilty of a ~~misdemeanor~~
17 a Category C Felony.

18

19 Analysis: Amy Ferrera has omitted §(1)(a)

20 From the list of offenses enumerated as

21 felonies on the third or subsequent

22 offense, (NRS 574.100(7)(c)). Clearly the

23 statute includes §(1)(a). Chief Deputy DA Ferrera's

24 rewriting of the statute renders the entire

25 statute non-sensical. The only thing that is clear

26 is that Ferrera wanted me to believe that a

27 violation of §(1)(a) was a Felony. It flows

28

1 That the only reason Ferrera could have to
2 do this is if she knew that I was
3 actually charged with a misdemeanor.
4

5 As I said in my reply, Sweeping what
6 Chief Deputy DA did to me (and
7 undoubtedly others) under the rug is
8 no fix. Firing Ms Ferrera does not
9 help my reality. At this point I'm
10 willing to be fair: Time served
11 with no parole, I did have a gun. I
12 also agree to sign a contract not to
13 pursue civil action against anyone.
14 However if the state insist on playing
15 me like I'm stupid - I'll do my time
16 and I will sue. The Federal courts
17 will not ignore the admonishment or rights.
18 For the above reason this motion should
19 be granted.

20 fe

21 I declare under penalty of perjury that
22 the foregoing is true and correct to
23 the best of my knowledge.
24

25 September 16, 2021

Christopher Blockson
50821

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Rockson, hereby certify, pursuant to NRCP 5(b), that on this 16
day of Sep, 2021, I mailed a true and correct copy of the foregoing, "Supplemental Brief to Motion to Overturn & Vacate Conviction
& Recus Judge Wise & OA for Clark County"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Steven D. Grison
Clerk of the Court
200 Lewis Ave, 3RD Floor
Las Vegas, NV 89155-1160

CC:FILE

DATED: this ____ day of _____, 20__.

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

Christopher Blackson

#50821

P.O. Box 208

Indian Springs, NV 89070

61st
2009955

STEVEN D. GRIFFINSON
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

quodent FIRST CLASS MAIL
09/29/2001
US POSTAGE \$001.56



ZIP 89101
041MPC254121

Christopher Blockson

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

Steven D. Grierson

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

State of Nevada

Plaintiff,

vs.

Christopher Blockson

Defendant.

Case No. C-18-336552-1
Dept. No. XXX
Docket _____

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
Christopher Blockson, in and through his proper person, hereby
appeals to the Supreme Court of Nevada from the ORDER denying and/or
dismissing the Motion to Overturn and Vacate Conviction For Outrageous
Government Conduct and The Refusal of Judge Wiese and District
Attorneys Office For Clark County.
ruled on the 4th day of October, 20 21.

Dated this 10 day of October, 20 21

Respectfully Submitted,

Christopher Blockson
Christopher Z Blockson

CLERK OF THE COURT

RECEIVED

OCT 13 2021

CERTIFICATE OF SERVICE BY MAILING

I, Christopher Blockson, hereby certify, pursuant to NRCP 5(b), that on this 10 day of October, 2021, I mailed a true and correct copy of the foregoing, "Motion to overturn and vacate conviction for outrageous Government conduct and the recusal of Judge Wiese and the District Attorney's Office for Clark County" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the

United State Mail addressed to the following:

STEVEN D. BRIDSON
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1100

CC:FILE

DATED: this 10 day of October, 2021.

Christopher Blockson
Christopher Blockson # 50821
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Christopher Blackson
#50821
P.O. Box 208
Indian Springs, NV 89070

LAS VEGAS NV 890

8 OCT 2021 PM 4 L

FOREVER / USA

Steven D. Criverson
Clerk of the Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160

000000-10101-000000



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 CHRISTOPHER BLOCKSON
14 aka CHRISTOPHER LENARD BLOCKSON,

15 Defendant(s),
16

Case No: C-18-336552-1

Dept No: XXX

17
18 **CASE APPEAL STATEMENT**
19

20 1. Appellant(s): Christopher Blockson

21 2. Judge: Jerry A. Wiese

22 3. Appellant(s): Christopher Blockson

23 Counsel:

24 Christopher Blockson #50821
25 P.O. Box 208
26 Indian Springs, NV 89070

27 4. Respondent: The State of Nevada

28 Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.

Las Vegas, NV 89101
(702) 671-2700

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: Yes

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

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

9. Date Commenced in District Court: November 29, 2018

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 78731, 81360, 82860

12. Child Custody or Visitation: N/A

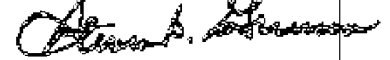
Dated This 14 day of October 2021.

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: Christopher Blockson



1 ORDER
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STACEY KOLLINS
6 Chief Deputy District Attorney
7 Nevada Bar #005391
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13
14 Plaintiff,

15 -vs-

CASE NO: C-18-336552-1

16 CHRISTOPHER LENARD BLOCKSON,
17 #1220853

DEPT NO: XXX

18 Defendant.

NOTICE OF ENTRY OF ORDER

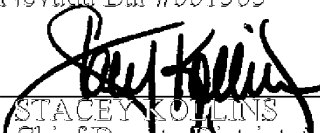
19 TO: CHRISTOPHER BLOCKSON, BAC#50821
20 S.D.C.C.
21 P.O. BOX 208
22 INDIAN SPRINGS, NV 89070

23 PLEASE TAKE NOTICE that an ORDER DENYING Defendant's Motion To
24 Overturn And Vacate Conviction For Outrageous Government Conduct And Recusal Of Judge
25 Weise And District Attorney's Office For Clark County, Nevada was entered in the above-
26 entitled matter, a copy of which is attached hereto.

27 DATED this 18th day of October, 2021.

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

BY


STACEY KOLLINS
Chief Deputy District Attorney
Nevada Bar #005391

hjc/SVU

**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

| | | |
|-----------------------|---|-------------------------|
| STATE OF NEVADA, |) | |
| |) | |
| Plaintiffs, |) | CASE NO.: C-18-336552-1 |
| |) | DEPT. NO.: XXX |
| vs. |) | |
| |) | |
| CHRISTOPHER BLOCKSON, |) | |
| |) | ORDER |
| Defendant. |) | |
| |) | |

INTRODUCTION

The above-referenced matter is scheduled for a hearing on October 5, 2021, with regard to Defendant's Motion to Overturn and Vacate Conviction for Outrageous Government Conduct and Recusal of Judge Wiese and District Attorney's Office for Clark County, Nevada. This matter has also been remanded by the Nevada Court of Appeals to Correct the Judgment of Conviction. Pursuant to the Administrative Orders of the Court, as well as N.R.Cr.P. 8(2), these matters may be decided with or without oral argument. This Court has determined that it would be appropriate to resolve these issues on the pleadings, and consequently, this Order issues.

FACTUAL AND PROCEDURAL HISTORY

On 12/10/18, Defendant Christopher Blockson was charged in Case No. C336552 with: Count 1- Cruelty to Animals (Category D Felony- NRS 574.100.1a); Count 2- Ownership or Possession of Firearm by Prohibited Person (Category B Felony- NRS 202.360); and Count 3- Discharge of Firearm From or Within a Structure or Vehicle (Category B Felony- NRS 202.287).

In conformity with the allegations in the Information, Defendant pled guilty to willfully, unlawfully, maliciously and feloniously torturing, unjustifiably maiming or killing a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or failing to get medical treatment for said dog. He was also charged with willfully, unlawfully, and feloniously owning, or having in his possession and/or under his custody or control, a Ruger .357 revolver after being convicted in 1996 of Possession of Controlled Substance with Intent to Sell, which is a felony under Nevada law.

1 Defendant argues that this case arose when his wife brought home a rescue dog,
2 which then attacked him.

3 Defendant was represented by Michael Troiano at the trial level. Pursuant to a
4 (Guilty Plea Agreement) GPA filed on 12/21/18, Defendant pled guilty to one count of
5 Cruelty to Animals and one count of Ownership or Possession of Firearm by Prohibited
6 Person on 04/16/19. Defendant was sentenced to 19-48 months on Count 1 and 28-72
7 months on Count 2, to run consecutive to Count 1. Defendant received an aggregate
8 sentence of 47 to 120 months with 74 days' credit for time served. The Court dismissed
9 Count 3. The JOC was filed on 04/22/19.

10 Defendant filed a Notice of Appeal on 05/02/19, and the Court appointed
11 counsel Caesar Almase, Esq. on 05/23/19. On 08/01/19, the Supreme Court filed an
12 Order indicating that there was some confusion about what lawyer was representing
13 the Defendant. It is unclear what happened at that point between Makris and Almase,
14 but Almase is currently listed on Odyssey as counsel of record in the instant case,
C336552, and Defendant is listed as pro se in A810466.

15 Defendant filed a Notice of Withdrawal of his appeal on 12/30/19, and the
16 Supreme Court filed an Order Dismissing Appeal on 01/16/20 in Case No. 78731,
17 indicating that Defendant had filed a notice of voluntary withdrawal of his direct
18 appeal.

19 Defendant then filed a Motion for Appointment of Attorney and post-conviction
20 Petition for Writ of Habeas Corpus (PWHC) in related case no. A810466 on 02/13/20,
21 in which he alleged that his sentence in Count 1 is illegal, because the State incorrectly
22 alleged that a violation of NRS 574.100(1)(a) was a felony. Defendant believed this
23 violation was actually a misdemeanor per statute; that his sentence on Count 1 was
24 illegal; and that his plea was thus not knowing, voluntary, or intelligent. Defendant
25 argued that because counsel did not catch the State's mistake, counsel was therefore
26 ineffective. Defendant also argued that he accepted the deal because it was better than
27 facing habitual treatment, and consequently, he did enter his plea knowingly and
28 voluntarily, and did not wish to withdraw his plea. Defendant filed a Motion for
Appointment of Counsel on 02/13/20 as well. That PWHC was set to be heard on
05/07/20, but was decided on the papers instead. An Order denying Defendant's first
PWHC was filed on 05/05/20, in which the District Court stated that Defendant

1 appeared to be misinterpreting NRS 574.100, because NRS 574.100(6) states in
2 relevant part that a person who "willfully and maliciously" violates NRS 574.100(1)(a)
3 "is guilty of a category D felony." Therefore, Defendant's argument that he was
4 mischarged was belied by the record, and counsel was consequently not ineffective and
5 appointment of counsel was unnecessary. Defendant's PWHC therefore lacked merit,
6 and Defendant failed to meet his burden in establishing that his Due Process rights
7 were violated.

8 Defendant appealed the 05/05/20 Order from A810466 to the Supreme Court
9 on 06/16/20. On 07/01/20, the Supreme Court filed an 'Order Directing Transmission
10 of Record and Regarding Briefing,' in which the Court concluded that its review of the
11 complete record is warranted. The Record on Appeal was transmitted on 07/02/20.
12 On 03/05/21, the Supreme Court filed an Order of Affirmance in 81360; Judgment was
13 issued on 03/31/21. Defendant then filed a "Motion to Appoint Counsel and Motion to
14 Modify and/or Correct Illegal Sentence: on 03/25/21. The District Court denied
15 Defendant's Motion in an Order dated 4/14/2021. The Order stated, in pertinent part:

16 This Court finds and concludes that the Defendant's claim that his sentence is
17 illegal, lacks merit, and is belied by the record. Defendant's claims that the State
18 violated his rights, misrepresented the statutes, maliciously rewrote the animal
19 cruelty statute, and maliciously prosecuted the Defendant, are all belied by the
20 record. Defendant has failed to set forth any basis for appointment of counsel.
21 Additionally, the Defendant's exact same arguments were previously denied by
22 this Court when Defendant's Petition for Writ of Habeas Corpus was denied in
23 A-20-810466-W. Much of the Court's Order from that case (Order dated
24 5/5/20), has been set forth herein, but for completeness, the Court adapts and
25 incorporates that Order herein by reference.

26
27 Based upon the foregoing, this Court finds and concludes that Defendant's
28 Motion for Appointment of Attorney and Motion to Modify Illegal Sentence lack
merit and are belied by the record. Defendant has failed to meet his burden in
establishing that his Due Process rights or any other rights were violated. The
Court finds no good cause to appoint counsel pursuant to NRS 34.750.
Consequently, and good cause appearing,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Defendant's
Motion for Appointment of Attorney and Motion to Modify Illegal Sentence are
both hereby DENIED.

See Order dated 4/14/21.

1 Subsequently, Defendant filed an Appeal of the 4/14/21 Order. On 8/30/21, the
2 Court of Appeals issued an Order of Affirmance and Remanding to Correct the
3 Judgment of Conviction. The Court of Appeals held:

4 ...it is clear that Blockson pleaded guilty to, and was sentenced in accordance
5 with, felony animal cruelty under NRS 574.100(6)(a). And because the district
6 court imposed Blockson's sentence in accordance with NRS 574.100(6)(a),
7 Blockson did not demonstrate that his sentence was illegal. Therefore, we
8 conclude the district court did not err by denying this claim.

9 We note, however, that the judgment of conviction contains a clerical
10 error. A judgment of conviction must include sentencing statutes. NRS
11 176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS
12 574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error "may be corrected
13 by the court at any time." NRS 176.565. Accordingly, we direct the district court,
14 upon remand, to enter an amended judgment of conviction that includes the
15 proper sentencing statutes. We therefore remand this matter to the district court
16 for the limited purpose of correcting the clerical error in the judgment of
17 conviction.

18 See Order of Affirmance and Remanding to Correct the Judgment of Conviction, filed
19 8/30/21, at pg. 2.

20 Before the Order of Affirmance and Remanding was issued by the Court of
21 Appeals, on August 3, 2021, Defendant mailed a "Motion to Overturn and Vacate
22 Conviction for Outrageous Government Conduct and Recusal of Judge Weiss and DA's
23 Office." The Motion appears to be postmarked "08/06/2021." The Clerk of Court's
24 Office received the Motion on August 9, 2021, and filed it on August 13, 2021. The State
25 filed an Opposition on August 31, 2021. Defendant mailed a Reply, which as received by
26 the Clerk of Court on 9/15/21 and e-filed on 9/16/21. Defendant signed "9 October,
27 2021."

28 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

The majority of Defendants' Motion appears to contain arguments almost
identical to those set forth in his Motion to Appoint Counsel and Motion to Modify
and/or Correct Illegal Sentence' filed on 03/25/21 and decided on 4/14/21. However,
Defendant adds a new argument that this Court should recuse itself because "District
Court Judge Wiese has twice demonstrated in his rulings that he is not capable of being
fair and impartial in this matter." (See Motion at pg. 8) Defendant argues that the
Court, in denying both his Writ and Motion to Modify, "pointed to the sentencing
transcripts to provide that [Blockson] entered a plea voluntarily to willful animal

1 cruelty.” Further, Defendant alleges that this Court refused to acknowledge the law
2 under *Edwards v. State*, and ignored the admonishment of rights for animal cruelty
3 which “proved [Blockson] was maliciously prosecuted.” Further, Defendant argues that
4 this Court apparently did not send Defendant a copy of the 4/14/21 Order, which
5 Defendant alleges was in hopes that the 30 days for him to file a notice of appeal would
6 lapse.

7 Additionally, Defendant requests that the District Attorney’s Office also recuse
8 itself. Defendant argues that “everyone knows what’s going on [,][h]owever all officers
9 of the court including the judge have turned a blind eye to the travesty and
10 fundamental unfairness that is unfolding in their presence.” (See Motion at pg. 8).
11 Defendant asserts, “We are here because of what the Chief Deputy District Attorney did
12 and Judge Wiess is covering up.” *Id.* Finally, Defendant requests that, in addition to
13 the recusals/removals, his sentenced be overturned and he be released from custody.

14 In Opposition, the State argues that Defendant’s claims regarding the felony
15 being a misdemeanor and government misconduct are procedurally barred by the law
16 of the case and res judicata. Defendant’s claims regarding government misconduct and
17 the charge being a misdemeanor have already been ruled on by the Court of Appeals of
18 the State of Nevada on 3/5/21. More recently, when affirming this Court’s denial of
19 Defendant’s Motion to Correct Illegal Sentence, the Court of Appeals held the
20 description of the crime sufficient, and that “it is clear that Blockson pleaded guilty to,
21 and was sentenced in accordance with, felony animal cruelty under NRS 74.100(6)(a).”

22 The State also argues that Defendant’s claim is barred by res judicata. The
23 decisions of the district court are final decisions absent a showing of changed
24 circumstances, and relitigation of claims is barred by the doctrine of res judicata. See
25 *Mason v. State*, 206 S.W.3d 869, 875 (Ark. 2005) (recognizing the doctrine’s
26 applicability in the criminal context); see also *York v. State*, 342 S.W. 528, 553 (Tex.
27 Crim. Appl. 2011). Accordingly, by simply continuing to file motions with the same
28 arguments, his motion is barred by the doctrines of the law of the case and res judicata.
Id.; *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Defendant relitigates
these same issues without presenting any changed circumstances. Thus, res judicata
bars Defendant’s claims regarding the representation of the statute and government
conduct. Additionally, the claims Defendant seeks to litigate necessitate either a direct

1 appeal or a petition for writ of habeas corpus, and given that this motion constitutes
2 neither of the two methods, this the State asks that the Court deny Defendant's motion.

3 With regard to Defendant's request that this Court recuse itself, the State argues
4 that Defendant fails to substantiate a proper reason for the recusal. This Court ruling
5 against Defendant is insufficient evidence to prove personal bias. Defendant
6 additionally claims that the Court was "sitting on the order." This claim is belied by the
7 record, as the order was filed on April 14, 2021. As Defendant presents no cognizable
8 grounds for recusal, this Court should deny the Defendant's request for the Court's
9 recusal.

10 As to Defendant's request that the District Attorney's Office be recused, the State
11 argues that the legal standard required is impossible for Defendant to meet. And, while
12 Defendant claims that the Clark County District Attorney's Office engaged in malicious
13 prosecution, both this Court and the Court of Appeals for the State of Nevada rejected
14 his arguments.

15 In Reply, Defendant states he filed the instant Motion so that his claims of
16 outrageous government conduct/malicious prosecution could be heard. Defendant
17 claims that he has "been stone-walled and silenced," and that the suggestion his claims
18 should be dismissed is ludicrous. Moreover, Defendant states, "We all have the
19 admonishment of rights for animal cruelty that is so damning that the Court and the
20 DA can't even acknowledge its existence. Shame! You shame America and the State of
21 Nevada." Further, Defendant agrees that there is nothing new in his argument, but
22 states "only the evidence that the DA has ignored," and that he can challenge an illegal
23 sentence at any time.

24 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

25 This Court finds and concludes that Defendant's Motion makes the exact same
26 arguments as he previously raised in his post-conviction PWHC, and in his Motion to
27 Modify or Correct Illegal Sentence. In all of his pleadings, Defendant claims that his
28 sentence on Count 1 is illegal because Cruelty to Animals should have been punished as
a misdemeanor rather than a Category D felony, and that the State "rewrote" the
animal cruelty statute in all of their filed documents with malicious intent to prosecute.
The Court notes that Defendant does not wish to withdraw his plea.

NRS 574.100 states in pertinent part the following:

NRS 574.100 Torturing, overdriving, injuring or abandoning animals; failure to provide proper sustenance; requirements for restraining dogs and using outdoor enclosures; horse tripping; penalties; exceptions.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

....

6. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

....

(NRS 574.100).

According to the Judgment of Conviction (Plea of Guilty), the Defendant was convicted of COUNT 1-CRUELTY TO ANIMALS (Category D Felony) in violation of NRS 574.100(1)(a).

In reviewing the Guilty Plea Agreement signed by the Defendant, and filed 12/21/18, it is clear that the Defendant was pleading guilty to COUNT 1- CRUELTY TO ANIMALS (Category D Felony – NRS 574.100.1a – NOC 55977), and the parties stipulated on Count 1 to a sentence of “nineteen (19) to forty-eight (48) months in the Nevada Department of Corrections.” (See GPA filed 12/21/18).

Most importantly, the Information filed 12/10/18, which was attached to the Guilty Plea Agreement, specifically alleged with regard to Count 1, that Defendant “did willfully, unlawfully, maliciously and feloniously torture or unjustifiably maim, mutilate or kill a Pit Bull dog, by shooting and/or stabbing and/or cutting said dog, and/or by failing to get medical treatment for said dog.” (See Information at pg. 2).

This Court previously found that the “willful and malicious” charging language was contained in the Information, and the Defendant clearly acknowledged that he was pleading to a category D felony in that regard. Additionally, there was a “stipulated sentence” of 19-48 months in prison relating to that charge.

When Mr. Blockson pled guilty, at the time of his arraignment, pursuant to the GPA, he was canvassed in part as follows:

1 All right. Before I can accept your plea of guilty, I have to go through the
2 Information with you to make sure that there's a factual basis. It says on
3 or about the fourth day of April 2018 in Clark County, Nevada, contrary to
4 the laws of the State of Nevada, on Count One, you did willfully,
5 unlawfully, maliciously and feloniously torture or unjustifiably maim,
6 mutilate or kill a Pitbull dog by shooting or stabbing or cutting said dog
7 and/or failing to get medical treatment for said dog.

8 Count Two, ownership or possession of a firearm by a prohibited person,
9 you did willfully, unlawfully and feloniously own or have possession
10 and/or under your custody or control a firearm, to wit, a Ruger .357
11 revolver bearing serial number 575-15259, the Defendant being a
12 convicted felon having in 1996 being -- been convicted of possession of a
13 controlled substance with intent to sell in case C135719 in the Eighth
14 Judicial Court, a felony under the laws of the State of Nevada.

15 Did you do those things?

16 THE DEFENDANT: Yes, sir.

17 (See Transcript of Hearing, December 21, 2018, at pgs. 7-8)

18 NRS 574.100(6) states in relevant part that a person who "willfully and
19 maliciously" violates NRS 574.100(1)(a) "is guilty of a category D felony." The
20 Petitioner's argument that he was not charged with a violation of NRS 574.100(1) is
21 belied by the record, as the Information alleges this violation, and indicates that he was
22 being charged with the Category D felony portion of the statute. This Court previously
23 found that the Information complied with NRS 173.075.

24 At the time of his Arraignment, the Defendant was specifically asked if he had
25 read and understood the Guilty Plea Agreement, as follows:

26 THE COURT: In looking at the Guilty Plea Agreement, it looks like you
27 signed it on page 6, dated December 21; did you sign it today?

28 THE DEFENDANT: Yes, sir.

THE COURT: Did you have a chance to read it? Did you understand it
before you signed it?

THE DEFENDANT: Yeah, I understood.

THE COURT: Okay. You had a chance to talk to Mr. Troiano about it and
he answered any questions you had about it?

THE DEFENDANT: Who is that?

THE COURT: This attorney standing next to you.

THE DEFENDANT: Oh, yeah. I talked to him.

THE COURT: Do you understand that by signing the Guilty Plea
Agreement you're agreeing that you read it and understood it; correct?

THE DEFENDANT: That's -- that's correct, sir.

THE COURT: You understand that by signing it you're giving up
important Constitutional rights like right to go to trial, confront your
accuser, to present evidence on your own behalf; do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are you currently under the influence of any alcohol,
3 medication, narcotics or any substance that might affect your ability to
understand these documents or the process that we're going through?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you currently suffering from any emotional or physical
distress that's caused you to enter this plea?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you understand that the range of punishment for this --
these charges as to Count One, it's up to one to four years and up to
8 \$5,000 fine, and Count Two is up to six years and up to a \$5,000 fine; do
you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that sentencing is strictly up to the
Court, nobody can promise you probation, leniency or any special
treatment?

11 THE DEFENDANT: I understand.

12 THE COURT: Do you have any questions that you want to ask of me, your
attorney or the State before we go forward?

13 THE DEFENDANT: Are you the sentencing judge?

14 THE COURT: Am I what?

15 THE DEFENDANT: The sentencing judge --

16 THE COURT: I am in your case.

17 MR. TROIANO: Actually, yeah, he is.

18 THE COURT: And your case is assigned to Department 30, so I will be the
sentencing judge, but only after you do a PSI.

19 THE DEFENDANT: All right.

20 THE COURT: Any other questions?

21 THE DEFENDANT: No, sir.

22 THE COURT: Has your attorney made any promises to you that are not
contained in the Guilty Plea Agreement?

23 THE DEFENDANT: No.

24 THE COURT: Based on all the facts and circumstances, are you satisfied
with the services of your attorney?

25 THE DEFENDANT: Yes.

26 (See Transcript from Arraignment, December 21, 2018, at pgs. 5-7).

27 As the Court of Appeals noted in its order, "the judgment of conviction contains
28 a clerical error. A judgment of conviction must include sentencing statutes. NRS
176.105(1)(c). Blockson's judgment of conviction did not refer to either NRS
574.100(6)(a) or NRS 193.130(2)(d). However, a clerical error 'may be corrected by the
court at any time.' NRS 176.565." (See Court of Appeals Order, at pg. 2). Because the
arguments in the instant motion, (at least relating to overturning and vacating the
Defendant's conviction), have already been addressed and affirmed by the Nevada

1 Court of Appeals, that Court's decision is the law of the case. This Court will comply
2 with the Court of Appeals Remand, and an Amended Judgment of Conviction will be
3 entered forthwith, including the appropriate sentencing statutes.

4 With regard to the Defendant's request to remove the District Attorney's Office
5 from the case, the Court finds no basis for this request, and it is summarily denied.

6 With regard to the Defendant's request for "recusal" of Judge Wiese, this Court
7 notes that, "A judge is presumed to be impartial, and the party asserting the challenge
8 carries the burden of establishing sufficient factual grounds warranting
9 disqualification." *Las Vegas Sands Corp. v. Eighth Jud. Dist. Ct.*, 2016 WL 2842901
10 (unpublished, Nev. 2016), citing *Rippo v. State*, 113 Nev. 1239, 1248, 946 P.2d 1017,
11 1023 (1997). "Nevada has two statutes governing disqualification of district court
12 judges. NRS 1.230 lists substantive grounds for disqualification, and NRS 1.235 sets
13 forth a procedure for disqualifying district court judges." *Towbin Dodge LLC v. Eighth
14 Judicial Dist. Ct.*, 121 Nev. 251, 255, 112 P.3d 1063, 1066 (2005). NRS 1.230 reads as
15 follows:

15 **NRS 1.230 Grounds for disqualifying judges other than Supreme
16 Court justices or judges of the Court of Appeals.**

16 1. A judge shall not act as such in an action or proceeding when the judge
17 entertains actual bias or prejudice for or against one of the parties to the action.

17 2. A judge shall not act as such in an action or proceeding when implied
18 bias exists in any of the following respects:

18 (a) When the judge is a party to or interested in the action or proceeding.

19 (b) When the judge is related to either party by consanguinity or affinity
20 within the third degree.

20 (c) When the judge has been attorney or counsel for either of the parties in
21 the particular action or proceeding before the court.

21 (d) When the judge is related to an attorney or counselor for either of the
22 parties by consanguinity or affinity within the third degree. This paragraph does
23 not apply to the presentation of ex parte or uncontested matters, except in fixing
24 fees for an attorney so related to the judge.

24 3. A judge, upon the judge's own motion, may disqualify himself or herself
25 from acting in any matter upon the ground of actual or implied bias.

25 4. A judge or court shall not punish for contempt any person who proceeds
26 under the provisions of this chapter for a change of judge in a case.

26 5. This section does not apply to the arrangement of the calendar or the
27 regulation of the order of business.

28 NRS 1.235, which sets for the procedure for disqualifying a district court judge, reads in
part as follows:

NRS 1.235 Procedure for disqualifying judges other than Supreme Court justices or judges of the Court of Appeals.

1. Any party to an action or proceeding pending in any court other than the Supreme Court or the Court of Appeals, who seeks to disqualify a judge for actual or implied bias or prejudice must file an affidavit specifying the facts upon which the disqualification is sought. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. Except as otherwise provided in subsections 2 and 3, the affidavit must be filed:

(a) Not less than 20 days before the date set for trial or hearing of the case; or

(b) Not less than 3 days before the date set for the hearing of any pretrial matter.

2. Except as otherwise provided in this subsection and subsection 3, if a case is not assigned to a judge before the time required under subsection 1 for filing the affidavit, the affidavit must be filed:

(a) Within 10 days after the party or the party's attorney is notified that the case has been assigned to a judge;

(b) Before the hearing of any pretrial matter; or

(c) Before the jury is empaneled, evidence taken or any ruling made in the trial or hearing, whichever occurs first. If the facts upon which disqualification of the judge is sought are not known to the party before the party is notified of the assignment of the judge or before any pretrial hearing is held, the affidavit may be filed not later than the commencement of the trial or hearing of the case.

3. If a case is reassigned to a new judge and the time for filing the affidavit under subsection 1 and paragraph (a) of subsection 2 has expired, the parties have 10 days after notice of the new assignment within which to file the affidavit, and the trial or hearing of the case must be rescheduled for a date after the expiration of the 10-day period unless the parties stipulate to an earlier date.

4. At the time the affidavit is filed, a copy must be served upon the judge sought to be disqualified. Service must be made by delivering the copy to the judge personally or by leaving it at the judge's chambers with some person of suitable age and discretion employed therein.

5. Except as otherwise provided in subsection 6, the judge against whom an affidavit alleging bias or prejudice is filed shall proceed no further with the matter and shall:

(a) If the judge is a district judge, immediately transfer the case to another department of the court, if there is more than one department of the court in the district, or request the judge of another district court to preside at the trial or hearing of the matter;

(b) If the judge is a justice of the peace, immediately arrange for another justice of the peace to preside at the trial or hearing of the matter as provided pursuant to NRS 4.032, 4.340 or 4.345, as applicable; or

(c) If the judge is a municipal judge, immediately arrange for another municipal judge to preside at the trial or hearing of the matter as provided pursuant to NRS 5.023 or 5.024, as applicable.

6. A judge may challenge an affidavit alleging bias or prejudice by filing a written answer with the clerk of the court within 5 judicial days after the

1 affidavit is filed, admitting or denying any or all of the allegations contained in
2 the affidavit and setting forth any additional facts which bear on the question of
3 the judge's disqualification. The question of the judge's disqualification must
thereupon be heard and determined by another judge agreed upon by the parties
or, if they are unable to agree, by a judge appointed:

4 (a) If the judge is a district judge, by the presiding judge of the judicial
5 district in judicial districts having more than one judge, or if the presiding judge
6 of the judicial district is sought to be disqualified, by the judge having the
greatest number of years of service;

7 (b) If the judge is a justice of the peace, by the presiding judge of the justice
8 court in justice courts having more than one justice of the peace, or if the
presiding judge is sought to be disqualified, by the justice of the peace having the
greatest number of years of service;

9 (c) If the judge is a municipal judge, by the presiding judge of the municipal
10 court in municipal courts having more than one municipal judge, or if the
presiding judge is sought to be disqualified, by the municipal judge having the
greatest number of years of service; or

11 (d) If there is no presiding judge, by the Supreme Court.

12 It should be noted that "a trial judge has a duty to sit and 'preside to the
13 conclusion of all proceedings, in the absence of some statute, rule of court, ethical
14 standard, or other compelling reason to the contrary," and "A judge shall hear and
15 decide matters assigned to the judge except those in which disqualification is required."
16 *Millen v. Eighth Judicial Dist Ct.*, 122 Nev. 1245, 1253, 148 P.3d 694 (2006). The
17 Nevada Supreme Court has further held that "A judge is presumed to be unbiased, and
18 generally, 'the attitude of a judge toward the attorney for a party is largely irrelevant.'"
19 *Millen* at pg. 1254, citing *Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 632,
20 635, 940 P.2d 127, 128 (1997). "The general rule of law is that what a judge learns in
21 his official capacity does not result in disqualification." *Kirksey v. State*, 112 Nev. 980,
22 923 P.2d 1102, citing to *Goldman v. Bryan*, 104 Nev. 644, 764 P.2d 1296 (1988).
23 Additionally, "Because a judge is presumed to be impartial, 'the burden is on the party
24 asserting the challenge to establish sufficient factual grounds warranting
25 disqualification.'" *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011), citing
26 *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988). Finally, the Court
27 has indicated that "disqualification for personal bias requires 'an extreme showing of
28 bias that would permit manipulation of the court and significantly impede the judicial
process and the administration of justice.' Generally, disqualification for personal bias
or prejudice or knowledge of disputed facts will depend on the circumstances of each
case." *Millen* at pg. 1254-1255, citing *Hecht* at pg. 636.

1 In the Nevada Code of Judicial Conduct, some terms are defined. “Impartial” is
2 one of those terms, and is defined as follows:

3 “Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice
4 in favor of, or against, particular parties or classes of parties, as well as
5 maintenance of an open mind in considering issues that may come before a
6 judge.” (NCJC, Terminology).

7 Rule 1.2 indicates that “A judge shall act at all times in a manner that promotes
8 public confidence in the independence, integrity, and impartiality of the judiciary and
9 shall avoid impropriety and the appearance of impropriety.” (NCJC, Rule 1.2, Canon 1)

10 Rule 2.2 reads in part as follows:

11 **Rule 2.2. Impartiality and Fairness.** A judge shall uphold and apply the
12 law, and shall perform all duties of judicial office fairly and impartially.

13 [1] To ensure impartiality and fairness to all parties, a judge must be
14 objective and open-minded.

15 [2] Although each judge comes to the bench with a unique background and
16 personal philosophy, a judge must interpret and apply the law without regard to
17 whether the judge approves or disapproves of the law in question.

18 [3] When applying and interpreting the law, a judge sometimes may make
19 good-faith errors of fact or law. Errors of this kind do not violate this Rule.

20

21 (NCJC, Rule 2.2, Canon 2)

22 Rule 2.3 reads in part as follows:

23 **Rule 2.3. Bias, Prejudice, and Harassment.**

24 (A) A judge shall perform the duties of judicial office, including administrative
25 duties, without bias or prejudice.

26 (B) A judge shall not, in the performance of judicial duties, by words or conduct
27 manifest bias or prejudice, or engage in harassment, including but not
28 limited to bias, prejudice, or harassment based upon race, sex, gender,
religion, national origin, ethnicity, disability, age, sexual orientation, marital
status, socioeconomic status, or political affiliation, and shall not permit
court staff, court officials, or others subject to the judge’s direction and
control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from
manifesting bias or prejudice, or engaging in harassment, based upon
attributes including, but not limited to, race, sex, gender, religion, national
origin, ethnicity, disability, age, sexual orientation, marital status,
socioeconomic status, or political affiliation, against parties, witnesses,
lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers
from making legitimate reference to the listed factors, or similar factors,
when they are relevant to an issue in a proceeding.

1 (NCJC, Rule 2.3, Canon 2)

2
3 Rule 2.4 reads in part that “A judge shall not permit family, social, political,
4 financial, or other interests or relationships to influence the judge’s judicial conduct or
5 judgment.” (NCJC, Rule 2.4, Canon 2)

6 Rule 2.11(A) of the Nevada Rules of Judicial Conduct, indicates that “A judge
7 shall disqualify himself or herself in any proceeding in which the judge’s impartiality
8 might reasonably be questioned. . .” (NCJC, Rule 2.11, Canon 2). The Comments to
9 this rule contain the following statement: “Under this Rule, a judge is disqualified
10 whenever the judge’s impartiality might reasonably be questioned, regardless of
11 whether any of the specific provisions of paragraphs (A)(1) through (6) apply.”

12 In the case of *City of Las Vegas Downtown Redevelopment Agency v. Eighth*
13 *Judicial Dist. Ct.*, 116 Nev. 640, 5 P.3d 1059 (2000), the Nevada Supreme Court
14 addressed a request to recuse Judge Mark Denton from an eminent domain case. The
15 Court referenced NCJC Canon 3(E)(1), which indicated that “A judge shall disqualify
16 himself or herself in a proceeding in which the judge’s impartiality might reasonably be
17 questioned, including but not limited to instances where: (a) the judge has a personal
18 bias or prejudice concerning a party or a party’s lawyer, . . .” *Redevelopment Agency*
19 at pg. 644. The Court went on to state the following, “[W]e have held that whether a
20 judge’s impartiality can reasonably be questioned is an objective question that this
21 court reviews as a question of law using its independent judgment of the undisputed
22 facts. *Redevelopment Agency*, at pg. 644, citing *In re Varain*, 114 Nev. 1271, 1278, 969
23 P.2d 305, 310 (1998).

24 In *People for the Ethical Treatment of Animals (PETA) v. Bobby Berosini*, 111
25 Nev. 431, 894 P.2d 337 (1995), overruled on other grounds by *Towbin Dodge LLC v.*
26 *Eighth Judicial Dist Court*, the Nevada Supreme Court similarly stated, “the test for
27 whether a judge’s impartiality might reasonably be questioned is objective; whether a
28 judge is actually impartial is not material.” *Berosini* at pg. 436. The Court referenced
NCJC Canon 2, which provided that “a judge shall avoid impropriety and the
appearance of impropriety in all of the judge’s activities,” and indicated that “the test
for appearance of impropriety is whether the conduct would create in reasonable minds
a perception that the judge’s ability to carry out judicial responsibilities with integrity,

1 impartiality and competence is impaired.” *Berosini* at pg. 435-436. The Court
2 referenced 28 U.S.C. §455(a) a federal statute, designed to promote public confidence
3 in the integrity of the judicial process, and referenced a case which indicated that “The
4 goal of section 455(a) is to **avoid even the appearance of partiality.**” *Berosini* at
5 pg. 436, (emphasis added), citing *Liljeberg v. Health Services Acquisition Corp*, 486
6 U.S. 847, 108 S.Ct. 2094, 100 L.Ed.2d 855 (1988). Another federal court had stated,
7 “Under §455(a) a judge has a continuing duty to recuse before, during, or, in some
8 circumstances, after a proceeding, if the judge concludes that sufficient factual grounds
9 exist to cause an objective observer reasonably to question the judge’s impartiality...
10 The standard is purely objective. The inquiry is limited to outward manifestations and
11 reasonable inferences drawn therefrom.” *Berosini*, at pg. 437, citing *United States v.*
12 *Cooley*, 1 F.3d 985, 992-993 (10th Cir. 1993). The Court in *Berosini*, indicated that the
13 question before the Court was “whether a reasonable person, knowing all the facts,
14 would harbor reasonable doubts about Judge Lehman’s impartiality.” The Court
15 concluded that they had to grant the motion to disqualify Judge Lehman, “to avoid
16 even the appearance of impropriety and to promote public confidence in the integrity of
17 the judicial process. We conclude that a reasonable person knowing all the facts, would
18 harbor reasonable doubts about Judge Lehman’s impartiality.” *Berosini*, at pg. 438.

19 In another Nevada Supreme Court case, the Court stated, “remarks of a judge
20 made in the context of a court proceeding are not considered indicative of improper
21 bias or prejudice unless they show that the judge has closed his or her mind to the
22 presentation of all the evidence.” *Schubert v. Eighth Judicial Dist. Ct.*, 128 Nev. 933,
23 381 P.3d 660 (2012).

24 In the *Hecht* case, Hecht filed a motion to disqualify Justice Cliff Young from
25 participating in an appellate decision, based on the argument that he allegedly
26 harbored a bias against Hecht’s counsel, Kermitt Waters. This alleged bias stemmed
27 from statements made by Justice Young during a Washoe County Bar Association
28 Lunch, during a campaign, where Steve Jones was running against Justice Young.
There were comments about campaign financing that Jones had received from Kermitt
Waters, and Justice Young suggested that it appeared that Mr. Waters had exceeded
the allowable limit of contributions to Judge Jones. Hecht argued that these
statements “amounted to an accusation that Waters had committed a crime, and as

1 such [were] evidence of Justice Young’s actual or implied bias toward Waters.” *Hecht*
2 at pg. 634.

3 The Court stated that it had “consistently held that the attitude of a judge toward
4 the attorney for a party is largely irrelevant.” *Hecht* at pg. 635. The Court cited to its
5 decision in *Ainsworth v. Combined Ins. Co.*, 105 Nev. 237, 259, 774 P.2d 1003, 1019
6 (1989), in which the Court held that “generally, an allegation of bias in favor of or
7 against counsel for a litigant states an insufficient ground for disqualification because it
8 is not indicative of extrajudicial bias against the party.” The Court indicated that the
9 purpose for that policy was that because Nevada is a small state, with a limited bar
10 membership, it is “inevitable that frequent interactions will occur between the
11 members of the bar and the judiciary.” *Hecht* at pg. 635-636. The Court further stated
12 that “we continue to believe that to permit a justice or judge to be disqualified on the
13 basis of bias for or against a litigant’s counsel in cases in which there is anything but an
14 extreme showing of bias would permit manipulation of the court and significantly
15 impede the judicial process and the administration of justice.” *Id.* While the Canon
16 states that “a judge can be disqualified for animus toward an attorney, situations where
17 such a disqualification has been found are exceedingly rare, and non-existent in
18 Nevada.” *Id.*, citing Richard E. Flamm, *Judicial Disqualification* §4.4.4, at 124 (1996).
19 Further, “To warrant judicial disqualification . . . the judge’s bias toward the attorney
ordinarily must be extreme. Situations in which judges have manifested such extreme
bias toward an attorney are exceedingly rare.” *Id.*

20 In *Hecht*, the Court cited to *Valladares v. District Court*, 112 Nev. 79, 910 P.2d
21 256 (1996), in which Judge Connie Steinheimer’s campaign literature was very critical
22 of then District Judge Lew Carnahan. Such letters made disparaging remarks about
23 Carnahan’s ethics, honesty, and competency. Steinheimer won the election, and
24 Carnahan appeared as an attorney for a party before her, and requested that she recuse
25 herself. Steinheimer refused, and it was taken to the Supreme Court, which stated that
26 “Judge Steinheimer does not possess an actual or apparent bias against Carnahan and
therefore need not recuse herself.” *Hecht* at pg. 636, citing *Valladares* at 84.

27 The Court also cited to *Sonner v. State*, where a prosecutor represented a judge
28 up to the day the prosecutor was to begin trying a death penalty case in front of the
judge. The Court held that even though the prosecutor had represented the judge in an

1 unrelated matter, until the day before trial, “there was no reason to conclude that the
2 attorney-client relationship between the judge and the prosecutor in any way affected
3 the judge’s ability to be fair and impartial.” *Hecht* at pg. 636-637, citing *Sonner v.*
4 *State*, 112 Nev. 1328, 930 P.2d 707 (1996).

5 The Court in *Hecht*, indicated that “the facts presented in the case at bar do not
6 rise to anything near the level warranting Justice Young’s disqualification. The
7 comments made by Justice Young were off-the-cuff remarks made during an election
8 campaign; and they were not nearly as serious as those made in *Ainsworth* and
9 *Valadares*, in which the judges made egregious remarks about counsel for a party, or
10 the situation in *Sonner*. Justice Young’s comments were based upon the information
11 he had received and merely suggested that Waters may have engaged in impropriety. . .
12 Justice Young’s remarks do not show evidence of a bias toward Waters that would
13 mandate Justice Young’s disqualification in this matter.” *Hecht* at pg. 637. The Court
14 concluded its opinion by stating that “Before a justice or judge can be disqualified
15 because of animus toward a party’s attorney, egregious facts must be shown.” *Hecht* at
16 pg. 638.

17 In *Ainsworth v. Combined Ins. Co. of America*, 105 Nev. 237, 774 P.2d 1003
18 (1989), the Court addressed a motion requesting disqualification of former Chief
19 Justice Gunderson. Combined argued that 1) he had a “disqualifying bias or prejudice
20 for and against the litigants and their counsel;” 2) his impartiality was subject to
21 question so as to create a “disqualifying appearance of impropriety;” and 3) his alleged
22 partiality denied Combined its right to a fair hearing before an impartial tribunal. *Id.*,
23 at 253. Combined argued that the appeal was handled in a manner contrary to the
24 Court’s normal procedure, but the Court summarily concluded that the Court followed
25 its normal procedure, and nothing relating to that issue demonstrated any prejudice,
26 bias or appearance or impropriety stemming from an extrajudicial source. *Id.*, at 255-
27 256. Combined argued that during oral argument, Gunderson “(1) ‘openly ridiculed’
28 and was uncivil and hostile to Combined and its attorney; (2) ‘acted not as a member of
an appellate court but as an advocate for the appellant’; (3) ‘expressed the opinion that
Combined’s very policy was an act of bad faith;’ and (4) expressed an ‘animus’ that was
not ‘confined to Combined and its counsel but seemingly reached the insurance
industry as a whole.’” *Id.*, at 256. The Supreme Court apparently reviewed the

1 recording of the oral argument, and concluded that the arguments were legally
2 insufficient to support the disqualification, but were also belied by the “tone, tenor and
3 substance” of Justice Gunderson’s remarks. *Id.*, at pgs. 256-257. The Court held that
4 his conduct was “well within the acceptable boundaries of courtroom exchange.” *Id.*, at
5 257, citing *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1316 (2nd Cir. 1988).
6 The Court held that “Although he may have expressed strong views regarding the
7 separate, additional facts in the record evidencing the oppressive nature of Combined’s
8 conduct, his expression of those views at the oral argument exhibited no bias stemming
9 from an extrajudicial source.” *Id.* at 257, citing *Goldman v. Bryan*, 104 Nev. 644, --, n.
10 6, 764 P.2d 1296, 1301 (1988); and citing also to *In re Guardianship of Styer*, 24 Ariz.
11 App. 148, 536 P.2d 717 (1975) “(Although a judge may have a strong opinion on merits
12 of a cause or a strong feeling about the type of litigation involved, the expression of
13 such views does not establish disqualifying bias or prejudice.)” Apparently Justice
14 Gunderson made some comments about Combined and its counsel, which may have
15 indicated a preconceived bias. The Court indicated that “although former Chief Justice
16 Gunderson’s response candidly acknowledges that he harbored preconceived, negative
17 impressions respecting the legal abilities of one of Combined’s counsel, his response
18 also indicated that those impressions were based upon his perception of counsel’s prior
19 ‘work product and performance in this court.’ Thus, those perceptions constitute
20 neither an extrajudicial, nor a disqualifying bias.” *Id.*, at pg. 258, citing *Goldman v.*
21 *Bryan*, 104 Nev. 644, 764 P.2d 1296 (1988); *In re Cooper* 821 F.2d 833, 838-42 (1st Cir.
22 1987) (a judge is not required to ‘mince words’ respecting counsel who appear before
23 him; it is a judge’s job to make credibility determinations, and when he does so, he does
24 not thereby become subject, legitimately, to charges of bias.) The Court said, that to
25 whatever extent “Gunderson’s response may evidence negative, personal impressions
26 about Combined’s counsel, based upon counsel’s prior legal associations, his
27 performance on the bar examination or his marital situation, those impressions were
28 formed during the course of his judicial and administrative duties as a Justice and
Chief Justice on this court.” *Id.*, at pg. 258, citing *United States v. Conforte*, 457
F.Supp. 641, 657 (D.Nev. 1978) (where origin of judge’s impressions was inextricably
bound up with judicial proceedings, judge’s alleged bias did not stem from an
extrajudicial source), modified on other grounds, 624 F.2d 869 (9th Cir.), cert denied,

1 449 U.S. 1012, 101 S.Ct. 568, 66 L.Ed.2d 470 (1980). Finally, the Court stated that
2 “those negative impressions extended only to counsel for the litigant involved, not to
3 the litigant itself. Generally, an allegation of bias in favor of or against counsel for a
4 litigant states an insufficient ground for disqualification because it is not indicative of
5 extrajudicial bias against the party.” *Id.*, at pg. 259, citing *In re Petition to Recall*
6 *Dunleavy*, 104 Nev. 784, 769 P.2d 1271, 1275, citing *Gilbert v. City of Little Rock, Ark.*,
7 722 F.2d 1390, 1398-99 (8th Cir. 1983), cert denied, 466 U.S. 972, 104 S.Ct. 2347, 80
8 L.Ed.2d 820 (1984); *Davis v. Board of School Com’rs of Mobile County*, 517 F.2d 1044,
9 1050 (5th Cir. 1975). Ultimately, the Court found that there was no basis for
disqualification of Justice Gunderson.

10 This Court acknowledges that several of the cases referenced herein, have been
11 reversed or modified for various reasons. This Court believes, however, that the
12 analysis contained in them is still good law, and is helpful and instructive in the present
13 case. This Court further acknowledges that most of the cases cited herein dealt with the
14 Nevada Code of Judicial Conduct which existed prior to the Code’s revision in 2009.
15 The Revised Nevada Code of Judicial Conduct became effective January 19, 2010,
16 containing somewhat different language, different section numbers, etc. This Court’s
17 reliance on the above-referenced case law, is consistent with the Nevada Supreme
18 Court’s recent reference to many of these same cases. In the unpublished case of
19 *Mkhitarian v. Eighth Judicial Dist. Ct.*, 2016 WL 5957647, 385 P.3d 48 (Nev., 2016,
unpublished), the Nevada Supreme Court stated the following analysis:

20 Rule 2.7 of the Nevada Code of Judicial Conduct (NCJC), provides that “[a]
21 judge shall hear and decide matters assigned to the judge, except when
22 disqualification is required by Rule 2.11 or other law.” Under Rule 2.11(A)(1) of
23 the NCJC, judicial disqualification is required “in any proceeding in which the
24 judge’s impartiality might reasonably be questioned, including when the judge
25 has a personal bias or prejudice concerning a party.” See also NRS 1.230 (“A
26 judge shall not act as such in an action or proceeding when the judge entertains
27 actual bias or prejudice for or against one of the parties to the action.”). ***The***
28 ***test under the NCJC to evaluate whether a judge’s impartiality***
might reasonably be questioned is an objective one – whether a
reasonable person knowing all of the facts would harbor reasonable
doubts about the judge’s impartiality. See *Ybarra v. State*, 127 Nev. 47,
51, 247 P.3d 269, 272 (2011). Disqualification for personal bias requires an
extreme showing of bias. *Millen v. Eighth Judicial Dist. Court*, 122 Nev. 1245,
1254, 148 P.3d 694, 701 (2006). Further, this court has generally recognized
that bias must stem from an “extrajudicial source,” something other than what

1 the judge learned from his or her participation in the case. *Rivero v. Rivero*, 125
2 Nev. 410, 439, 216 P.3d 213, 233 (2009), and that adverse judicial rulings during
3 the proceedings are not a basis to disqualify a judge. *In re Petition to Recall*
Dunleavy, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). . . .

4 *Id.*, (emphasis added).

5 In another recent Nevada Court of Appeals decision, also unpublished, the Court
6 set forth the same test in determining whether disqualification was warranted. The
7 Court of Appeals stated, “The test for whether a judge’s impartiality might reasonably
8 be questioned is objective and disqualification is required when ‘a reasonable person,
9 knowing all the facts, would harbor reasonable doubts about the judges impartiality.’”
10 *Bayouth v. State*, 2018 WL 2489862 (Nev.Ct.of App., 2018, unpublished).

11 In *Ybarra v. State*, 127 Nev. 47, 247 P.3d 269 (2011), the Nevada Supreme Court
12 again indicated that “the test for appearance of impropriety is whether the conduct
13 would create in reasonable minds a perception that the judge’s ability to carry out
14 judicial responsibilities with integrity, impartiality and competence is impaired.”
15 *Ybarra* at pg. 50, citing NCJC Canon 2A. The Court went on to indicate that the issue
16 that needed to be addressed was again, “**whether a reasonable person, knowing**
17 **all the facts, would harbor reasonable doubts about the judge’s**
18 **impartiality.**” *Ybarra* at pg. 51, (emphasis added), citing *PETA*, 111 Nev. at 438, 894
19 P.2d at 341 (additional citations omitted). In *Ybarra*, the Court cited to *People v.*
20 *Booker*, where the Defendant who was charged with a crime, argued that the judge
21 should have been disqualified because he had represented the victim’s father in a
22 divorce proceeding, and the appellate court could find no evidence in the record
23 suggesting that the trial judge was biased against the defendant. 224 Ill.App.3d 542,
24 166 Ill. Dec. 252, 585 N.E.2d 1274, 1284 (1992). Further, a judge in a small town, need
25 not disqualify himself merely because he knows one of the parties. *Ybarra* at pg. 52,
26 citing *Jacobson v. Manfredi*, 100 Nev. 226, 230, 679 P.2d 251, 254 (1984). In *Ybarra*,
the Court concluded that the prior representation by Judge Dobrescue would not cause
an objective person reasonably to doubt his impartiality. *Ybarra* at pg. 52.

27 This Court does not believe that any of the grounds set forth in NRS 1.230 apply,
28 as this Court has no bias or prejudice against the Defendant, and no basis for a
voluntary recusal. The Court is not sure whether the present Motion for Recusal of
Judge Wiese was intended to be a Motion for Disqualification, pursuant to NRS 1.235,

1 as it was called a Motion for Recusal and not called a Motion for Disqualification. If it
2 was intended to be a Motion for Disqualification under NRS 1.235, it is untimely
3 pursuant to NRS 1.235(1), as the statute appears to only apply “pre-trial.” An
4 “Affidavit,” as required by NRS 1.235 was not filed, nor served on the Court, and
5 consequently, there appears to be no reason to “challenge an affidavit alleging bias or
6 prejudice by filing a written answer with the clerk of the court within 5 judicial days
7 after the affidavit is filed.” This Court does not believe that an objective person would
8 reasonably doubt this Court’s impartiality, and consequently, the Court does not
9 believe that recusal, or disqualification would be appropriate.

9 **CONCLUSION AND ORDER.**

10 Based upon the foregoing, and good cause appearing,

11 **IT IS HEREBY ORDERED** that the Defendant’s Motion to Overturn and
12 Vacate Conviction for Outrageous Government Conduct and Recusal of Judge Wiese
13 and District Attorney’s Office for Clark County, Nevada, is hereby **DENIED**.

14 The Court requests that Counsel for the State prepare and process a Notice of
15 Entry of this Order.

16 Because this matter has been decided on the pleadings, the hearing set for
17 October 5, 2021, will be taken “off calendar,” and consequently, there is no need that
18 counsel or the parties appear.

19 Pursuant to the 8/30/21 Order of the Court of Appeals, an Amended Judgment
20 of Conviction will be filed forthwith.

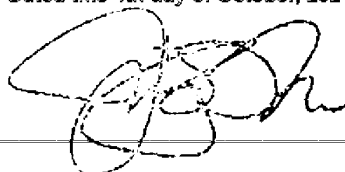
21 Because the Defendant’s Motion for Recusal could be construed as a Motion for
22 Disqualification, this Order will also be submitted to the Chief Judge, and if she
23 believes it should be considered a Motion for Disqualification, she may take whatever
24 action in that regard she believes is appropriate.

25 The Court further notes Defendant has filed a Motion and Order for
26 Transportation of Inmate for Court Appearance or in the Alternative for Appearance by
27 Telephone or Video Conference seeking personal appearance for the October 5, 2021,
28 hearing. Said motion is set for hearing on October 7, 2021, at 8:30 AM.

Because the Motion to Overturn and Vacate Conviction for Outrageous
Government Conduct and Recusal of Judge Wiese and District Attorney’s Office for
Clark County, Nevada, has been decided without oral argument and the October 5,

1 2021, hearing was vacated, Defendant's Motion for Transportation of Inmate for Court
2 Appearance or in the Alternative for Appearance by Telephone or Video Conference is
3 hereby deemed MOT. The hearing set for October 7, 2021, will be taken "off
4 calendar," and consequently, there is no need for counsel or the parties appear.

5
6 Dated this 4th day of October, 2021

7
8 A handwritten signature in black ink, appearing to read 'J. Wiese', is written over a horizontal line.

9
10 83B 60D C216 2354
11 Jerry A. Wiese
12 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-18-336552-1

7 vs

DEPT. NO. Department 30

8 Christopher Blockson

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 10/4/2021

15 Jason Makris

jason.makris@makrislegal.com

16 Steven Wolfson

pdmotions@clarkcountyda.com

17 Trisha Garcia

garciat@clarkcountycourts.us

18 Sandra Pruchnic

pruchnics@clarkcountycourts.us

19 Michelle Ramsey

ramseym@clarkcountycourts.us

20 Caesar Almase

Caeser@almaselaw.com

21 Kimberly Farkas

kimrcs@cox.net

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 10, 2018

C-18-336552-1 State of Nevada
 vs
 Christopher Blockson

December 10, 2018 10:00 AM Initial Arraignment

HEARD BY: Johnson, Susan

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Shannon Emmons

RECORDER: Trisha Garcia

REPORTER:

PARTIES

PRESENT: Blockson, Christopher Defendant
 Dickerson, Michael Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deputized Law Clerk, Yu Meng, present for the State. David Fischer, Esq. present on behalf of Michael Troiano, Esq. for the Deft.

Information FILED IN OPEN COURT.

Mr. Fischer requested matter be continued two (2) weeks as Mr. Troiano is in trial. State indicated Deft. waived up on a negotiation which expires today and stated a Guilty Plea Agreement can be drafted within two (2) days. State submits to the Court regarding how long to continue matter. Court indicated plea should be entered before Christmas. COURT ORDERED, matter CONTINUED.

BOND

12/21/2018 10:00 A.M. ARRAIGNMENT CONTINUED (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 09, 2019

C-18-336552-1 State of Nevada
 vs
 Christopher Blockson

April 09, 2019 8:30 AM Motion to Dismiss

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT: Blockson, Christopher Defendant
 Getler, Stephanie M. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- John Parris, Esq., on behalf of Michael Troiano, Esq., for Defendant.

Ms. Getler advised this was Ms. Ferreira's case and she did not have the case file. Mr. Parris requested a continuance for Mr. Troiano's presence. Defendant stated he did not want to file any motions, did not want to withdraw his plea, and did not want Mr. Troiano to speak on his behalf, however, wants to discuss bail. Defendant provided the Court letters of support to review before Sentencing. COURT ORDERED, matter CONTINUED and DIRECTED Mr. Troiano to speak with Defendant regarding any concerns. Mr. Parris advised he would inform Mr. Troiano of the Court's directives.

BOND

CONTINUED TO: 04/16/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2019

C-18-336552-1 State of Nevada
 vs
 Christopher Blockson

April 16, 2019 8:30 AM All Pending Motions

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT: Blockson, Christopher Defendant
 Ferreira, Amy L. Attorney
 State of Nevada Plaintiff
 Troiano, Michael Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATIVE COUNSEL...SENTENCING

Mr. Troiano confirmed no issues pursuant to stockmeier and announced ready to proceed with Sentencing. DEFENDANT BLOCKSON ADJUDGED GUILTY of COUNT 1 - CRUELTY TO ANIMALS (F) and COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Ms. Ferreira advised Defendant picked up a new case and provided such report to the Court. Defendant provided letters to the Court for review and made a statement. CONFERENCE AT THE BENCH.

Ms. Ferreira submitted on the negotiations. Argument by Mr. Troiano. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, \$3.00 DNA Collection fee, and \$250.00 Indigent Defense Civil Assessment fee, Defendant SENTENCED on COUNT 1 - to a MAXIMUM of FORTY- EIGHT (48) MONTHS and a MINIMUM of NINETEEN (19) MONTHS in the Nevada Department of Corrections

PRINT DATE: 11/30/2021

Page 4 of 7

Minutes Date: December 10, 2018

(NDC) and on COUNT 2 - to a MAXIMUM of SEVENTY- TWO (72) MONTHS and a MINIMUM of TWENTY- EIGHT (28) MONTHS in the NDC, CONSECUTIVE to COUNT 1, for an AGGREGATE total of a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY- SEVEN (47) MONTHS in the NDC with SEVENTY- FOUR (74) DAYS credit for time served. COURT FURTHER ORDERED, Count 3 - DISMISSED.

Mr. Troiano requested to withdraw as Counsel for any post conviction. Defendant had no objection. COURT ORDERED, Mr. Troiano WITHDRAWN. BOND, if any, EXONERATED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 23, 2019

C-18-336552-1 State of Nevada
 vs
 Christopher Blockson

May 23, 2019 8:30 AM All Pending Motions

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT: Derjavina, Ekaterina Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PRO PER NOTICE OF APPEAL...DEFENDANT'S PRO PER MOTION TO APPOINT APPELLANT COUNSEL

Defendant not present. Ms. Derjavina advised Defendant was sentenced on 04/16/19, Michael Troiano withdrew and was now requesting new counsel for the purposes of appeal. Ms. Derjavina had no objection to the appointment of counsel. COURT ORDERED, Defendant's Motion to Appoint Appellant Counsel GRANTED; Caesar Almase APPOINTED.

NDC

CLERK'S NOTE: Department XXX's Law Clerk informed Caesar Almase, Esq., of the appointment. //05/23/19 vm

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 07, 2021

C-18-336552-1 State of Nevada
 vs
 Christopher Blockson

September 07, 2021 8:30 AM Motion

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Lauren Kidd

RECORDER: Vanessa Medina

REPORTER:

PARTIES

PRESENT: Botelho, Agnes M Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- State present via BlueJeans video conferencing. Defendant not present, in Nevada Department of Corrections.

Court advised this Court had not yet received a remittitur from the Appeals Court; therefore, this Court does not have jurisdiction to hear the motion yet. COURT ORDERED, matter CONTINUED for 30 days for the filing of a remittitur.

NDC

CONTINUED TO: 10/05/21 8:30 AM

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated November 23, 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 two volumes with pages numbered 1 through 371.

STATE OF NEVADA,

Plaintiff(s),

vs.

CHRISTOPHER BLOCKSON
aka CHRISTOPHER LENARD BLOCKSON,

Defendant(s),

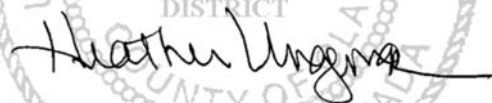
Case No: C-18-336552-1

Dept. No: XXX

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 30 day of November 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk