

FILED

(Additional pages, if needed; identify what is being continued.)

NOV 29 2021

IN THE SUPREME COURT
STATE OF NEVADA

CLERK OF THE SUPREME COURT
BY: *Angela*
DEPUTY CLERK

MICHAEL COTA
Appellant
vs

Supreme Ct No: 83775
District Court Case No: 18-CR0084
18-CR-0116

The STATE OF NEVADA
Respondent

Appeal Brief

This is an Appeal of The District Courts Denial to
Held JOHN MALONE ESQ IN Contempt. Former Counsel
was ordered to withdraw From the Case and provide
MR COTA WITH All Case Documents so he could
prepare his Habeas Corpus. MR Malone FAILED TO
Comply and MR COTA FILED A MOTION FOR A SHOW
CAUSE HEARING. MR MALONE FILED A RESPONSE
AND AFFIDAVIT Concerning This MATTER. (SEE EXHIBIT
ONE) IN THIS AFFIDAVIT HE SWEARS THAT HE COMPLIED
WITH the Courts order by shipping Multiple
Boxes to MR COTA VIA U.S.P.S. Please SEE EXHIBIT
TWO WHICH ARE The Receipts HE PRESENTS AS
EVIDENCE. Please NOTE They ARE FROM FED EX NOT
USPS. Further EXAMINING The Receipts IN EXHIBIT
TWO WE FIND FIRST A FED EX SHIPMENT ON 4/5/2020

RECEIVED
NOV 29 2021
CLERK OF THE SUPREME COURT
STATE OF NEVADA

21-33954

MEMORANDUM OF POINTS AND AUTHORITIES

AT 11:25AM FROM CARSON CITY ON E WILLIAMS ST
FOR #69.68. ON PAGE 2 WE FIND 2 RECEIPTS
THE LEFT ONE IS FOR 6/5/2020 AT 12:02 PM FROM
THE SAME CARSON CITY LOCATION THIS ONE FOR .32¢
THE RECEIPT ON RIGHT SHOWS THAT AGAIN ON 6/5/2020
MAY AT 4³⁴ PM MR MALONE NOW TRAVELED TO RENO
TO AGAIN SHIP A BOX TO MR COTA, THIS RECEIPT BEING
FOR #30.35. THE ADDRESS OF LOCATION OF FEDEX
OFFICE BEING 75 MCCABE DR IN RENO. NOW ON PG 3
WE SEE 2 MORE RECEIPTS THE ONE ON THE LEFT
BEING ~~AT~~ AT 3:34 PM THIS ONE FROM 6479 SOUTH
VIRGINIA ST IN RENO, AGAIN ON 6-5-2020. THE RECEIPT
ON THE RIGHT SHOWS THAT ON 6/5/2020 AT 11⁴⁰ AM
YET ANOTHER BOX IS SHIPPED THIS ONE AT #63.92
THIS IS NOT ONLY RIDICULOUS BUT IS A ACT OF
KNOWINGLY PRESENTING FALSE DOCUMENTS TO THE
COURT. FIRST THE AFFIDAVIT LISTS THE SHIPPER AS
USPS BUT THE RECEIPTS ARE FROM FEDEX. NEXT
ONE WOULD HAVE TO BELIEVE THAT MR MALONE FIRST
WENT TO CARSON CITY TO FEDEX. MADE 3 SEPARATE
SHIPMENTS AT 11²⁵ AM, 11⁴⁰ AM AND 12⁰² PM. THEN
HE TRAVELED TO RENO MADE A SHIPMENT AT ONE
LOCATION AT 3³⁴ PM THEN LEFT THERE TRAVELED
TO ANOTHER RENO LOCATION AND MADE THE LAST
SHIPMENT AT 4³⁴ PM. THIS IS A TOTAL OF 5 SHIPMENTS
FROM 2 CITIES ON THE SAME DAY AT A COST OF

1
2 \$ 204.62, THIS ON A CASE THAT DID NOT GO TO
3 TRIAL. LOOKING AT THIS IN A TOTALLY LOGICAL
4 SENSE NOONE WOULD MAKE 5 SHIPMENTS FROM
5 3 LOCATIONS IN 2 DIFFERENT CITIES TO THE SAME PERSON
6 YOU WOULD SIMPLY TAKE IN ALL BOXES TO ONE LOCATION
7 AND SHIP THEM. FURTHER A SUBPOENA OF ELY STATE
8 PRISON LEGAL MAIL RECORDS WILL PROVE THESE
9 SHIPMENTS DID NOT ARRIVE AT ELY STATE PRISON.
10 MR MALONE IS CLEARLY IN CONTEMPT AND THIS
11 HAS CAUSED MR COTA TO NOT HAVE HIS CASE FILE
12 TO DO A TIMELY HABEAS CORPUS.
13 WE ASK THAT THIS BE REMANDED AND REVERSED BACK
14 TO DISTRICT COURT. PLEASE SEE AFFIDAVIT AS
15 EXHIBIT THREE
16
17
18
19
20
21
22

23
24 Dated this 24TH day of November, 2021

25
26 By: U. S. Cota II
27
28

EXHIBIT ONE

2

EXHIBIT ONE

RECEIVED

FILED

Case No. 2018-CR-00084/00116

MAY 26 2021

2021 MAY 26 PM 3:37

Dept. No. II

Douglas County
District Court Clerk

DOBBIE R. WILLIAMS
CLERK

K. WILFERT DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR
THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

RESPONSE TO

ORDER TO SHOW CAUSE

Vs.

MICHAEL LUIS COTA,

Defendant.

Upon receiving this court's May 21, 2020 *Order Discharging Counsel and Ordering Counsel to Provide Defendant with Case File*, counsel prepared a copy of Defendant Michael Luis Cota's case file and mailed it via USPS to Defendant's last known residence at Ely State Prison, Nevada.

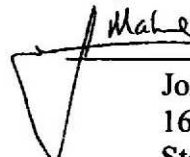
See Exhibit 1: Photocopy receipts and receipts for USPS shipment to the State Prison located in Ely, Nevada. (Counsel paid for signed confirmation for delivery as is reflected in the receipt but did not receive delivery confirmation from the USPS).

1 Following preparation of Cota's file and its shipment, counsel received a phone call from
2 Mr. Cota apologizing for his previous motion to terminate counsel. He informed me that his sole
3 purpose was to obtain a copy of his file in preparation for upcoming parole hearings.

4 Counsel apologizes for his oversight in not responding to Mr. Cota's April 20th, 2021
5 motion.

6
7
8
9
10 DATED: 5-26-21

Respectfully submitted:


John E. Malone
1662 US Highway 395
Ste: 202
Minden, NV 89423
775-392-3342
Attorney for Defendant

11
12
13
14
15
16
17 Copies served by mail / hand delivered on May 26, 2021, addressed to:

18
19
20 Douglas County District Attorney's Office

(Hand Delivery)

21 P.O. Box 218

22 Minden, Nevada 89423

23
24 Michael Cota

(Mail)

25 Inmate Number # 1206075

26 Ely State Prison

27 P.O. Box 1989-5A41-ESP

28 Ely, Nevada 89301

1 Case No. 2018-CR-00084/00116

2 Dept. No. II

RECEIVED

MAY 26 2021

Douglas County
District Court Clerk

FILED

2021 MAY 26 PM 3: 36

EDDIE R. WILLIAMS
CLERK

K. WILFERT DEPUTY

3
4
5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN
6 AND FOR THE COUNTY OF DOUGLAS
7
8
9

10 THE STATE OF NEVADA,

11 Plaintiff,

AFFIDAVIT OF ATTORNEY JOHN E. MALONE
12 IN SUPPORT OF THE RESPONSE TO ORDER
13 TO SHOW CAUSE

14 vs.

15
16 MICHAEL LUIS COTA,

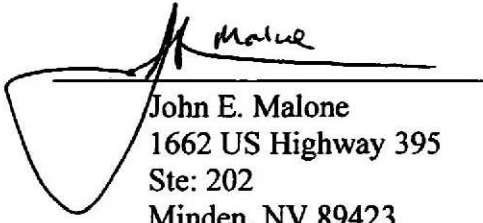
17 Defendant
18
19

20 I, the undersigned, Attorney John Malone, former counsel for Michael Luis Cota, hereby
21 affirms under the penalty of perjury the following:
22

- 23 1. I was formerly the counsel for Michael L. Cota.
- 24
- 25 2. I was relieved as counsel by court order and directed to provide Mr. Cota with a copy of
26 his file. See exhibit 1, Receipt for file copies and postage.
27
- 28 3. I removed Mr. Cota's file from its binders and removed all index markers.

- 1 4. I then made copies of all documents in my possession and mailed them to Ely State
2 Prison, Mr. Cota's last known address.
3 5. Later, during a telephone call with Mr. Cota from Ely State Prison, I was able to confirm
4 that he had received his file.
5

6 DATED: 5-26-21
7


John E. Malone
1662 US Highway 395
Ste: 202
Minden, NV 89423
775-392-3342
Attorney for Defendant

10
11
12
13 Copies served by mail / hand delivered on May 26, 2021, addressed to:
14
15

16 Douglas County District Attorney's Office
17 P.O. Box 218
18 Minden, Nevada 89423
19

(Hand Delivery)

20 Michael Cota
21 Inmate Number # 1206075
22 Ely State Prison
23 P.O. Box 1989-5A41-ESP
24 Ely, Nevada 89301
25
26
27
28

(Mail)

EXHIBIT TWO

EXHIBIT TWO

Cota
V
①
FedEx Office.

June 05, 2020 11:58
Receipt #: 0777424055
VISA #: XXXXXXXXXXXX1634
2020/06/05 11:25

Page: 1

Qty	Description	Amount
536	ES B&W S/S White 8.5 x11	69.68
	SubTotal	69.68
	Taxes	5.30
	Total	74.98

The Cardholder agrees to pay the Issuer of the charge card in accordance with the agreement between the Issuer and the Cardholder.

1426 E. William St.
Carson City, NV 89701
(775) 886-6099
www.FedExOffice.com

Tell us how we're doing and receive
\$5 off your next \$30 print order
at fedex.com/we listen or 1-800-398-0242
Offer Code: _____ Offer expires 12/31/2020

By submitting your project to FedEx Office or by making a purchase in a FedEx Office store, you agree to all FedEx Office terms and conditions, including limitations of liability. Request a copy of our terms and conditions from a team member or visit fedex.com/officeserviceterms for details.

Please Recycle This Receipt



FedEx Office is your destination
for printing and shipping.

1426 E William St
Carson City, NV 89701
Tel: (775) 886-6099

6/5/2020 12:02:27 PM PST
Team Member: SAMANTHA L.

SALE

ES Paper Pastl/Astro	15 @	0.0200 T
002586 Reg. Price	0.02	
Regular Total	0.30	
Discounts	0.00	
Total	0.30	

Sub-Total	0.30
Tax	0.02
Deposit	0.00
Total	0.32

***** PURCHASE *****
APPROVED

Total: \$0.32

Card Type: VISA
Card Entry: CHIP
Acct #: *****1634
Approval Code: 023021

***** EMV PURCHASE *****

App Label: VISA DEBIT
Mode: Issuer

ATN: A00000000021010

STEAMBOAT
75 MCCABE DR
RENO, NV 89511-9998
317289-0680
(800)275-8777
06/05/2020 04:34 PM

Product	Qty	Unit Price	Price
PM 3-Day (Domestic) (ELY, NV 89301) (Weight:13 Lb 5.0 Oz) (Expected Delivery Day) (Tuesday 06/09/2020) (USPS Tracking #) (9510 8100 5091 0157 7564 20)	1	\$27.20	\$27.20
Insurance (Up to \$50.00 included)			\$0.00
Sign Conf			\$3.15
Total:			\$30.35

Debit Card Remit'd \$30.35
(Card Name:VISA)
(Account #:XXXXXXXXXX1634)
(Approval #)
(Transaction #:632)
(Receipt #:040005)
(Debit Card Purchase:\$30.35)
(Cash Back:\$0.00)
(AID:A0000000980840 Chip)
(AL:US DEBIT)
(PIN:Verified)

Due to limited transportation
availability as a result of
nationwide COVID-19 impacts
package delivery times may be
extended. Priority Mail Express®
service will not change.

Text your tracking number to 28777
(USPS) to get the latest status.
Standard Message and Data rates may



3



June 05, 2020 15:52
Receipt #: 3903718254
VISA #: XXXXXXXXXXXX1634
2020/06/05 15:34

Page: 1

Qty	Description	Amount
249	ES B&W S/S White 8.5 x11	32.37
SubTotal		32.37
Taxes		2.68
Total		35.05

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

6479 SOUTH VIRGINIA
RENO, NV 89511
(775) 851-6800
www.FedExOffice.com

Tell us how we're doing and receive
\$5 off your next \$30 print order
at fedex.com/welisten or 1-800-398-0242
Offer Code: _____ Offer expires 12/31/2020

By submitting your project to FedEx Office or by making a purchase in a FedEx Office store, you agree to all FedEx Office terms and conditions, including limitations of liability. Request a copy of our terms and conditions from a team member or visit fedex.com/officeserviceterms for details.

Please Recycle This Receipt

June 05, 2020 11:58
Receipt #: 0777424056
VISA #: XXXXXXXXXXXX1634
2020/06/05 11:40

Page: 1

Qty	Description	Amount
457	ES B&W S/S White 8.5 x11	59.41
SubTotal		59.41
Taxes		4.51
Total		63.92

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

1426 E. William St.
Carson City, NV 89701
(775) 886-6099
www.FedExOffice.com

Tell us how we're doing and receive
\$5 off your next \$30 print order
at fedex.com/welisten or 1-800-398-0242
Offer Code: _____ Offer expires 12/31/2020

By submitting your project to FedEx Office or by making a purchase in a FedEx Office store, you agree to all FedEx Office terms and conditions, including limitations of liability. Request a copy of our terms and conditions from a team member or visit fedex.com/officeserviceterms for details.

Please Recycle This Receipt

EXHIBIT THREE

EXHIBIT THREE

AFFIDAVIT OF: MICHAEL COTA

STATE OF NEVADA)

COUNTY OF WHITE PINE)

TO WHOM IT MAY CONCERN:

I, MICHAEL COTA the undersigned, do hereby swear that all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and to those, I believe them to be true and correct.

Signed under the penalty of perjury pursuant to NRS 208.165 :

- (1) I HAVE EXAMINED THE ANSWER TO SHOW CAUSE, AFFIDAVIT AND SHIPPING RECEIPTS PROVIDED BY JOHN MALONE
- (2) IT IS MY BELIEF THAT THOSE DOCUMENTS ARE UNTRUE
- (3) I DID NOT RECEIVE THESE SHIPMENTS
- (4) ELY STATE PRISON LEGAL MAIL RECORDS FOR INCOMING LEGAL MAIL WILL VERIFY THIS
- (5) THESE CASE RECORDS WERE ESSENTIAL TO ME SUBMITTING A TIMELY HABEAS CORPUS
- (6) MY HABEAS CORPUS WAS DISMISSED AS A DIRECT RESULT OF THIS SITUATION

EXECUTED AT: Ely State Prison, this 24th Day of November 2021

BY: MICHAEL COTA NDOC# 1206075

M. Cota

(SIGNATURE)