

1 Bryan p Bonham 60575

2 Po Box 650 (HOSP)

3 Indian Springs, NEV 89070

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8 Bryan p Bonham

9 plaintiff/petitioner

10 -vs-

11 Barbara K Cegouse

12 defendant/Respondant.

13

14 comes now Bryan p Bonham plaintiff/petitioner in proper persona and

15 Respectfully moves this Honorable court to enter an order granting

16 this petition.

17

18 This petition is further made and based upon all papers, files, pleadings

19 & documents as well as all points & authorities herein.

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FILED

NOV 22 2021

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

IN THE SUPREME COURT

STATE OF NEVADA

DISTRICT COURT NO. 27-CV-WR3-2019 0039

SUP. CRT. CASE NO.

PETITION FOR WRIT OF MANDAMUS

RECEIVED

NOV 22 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

21-033594

POINTS AND AUTHORITIES

ARGUMENT

petitions for extraordinary writs are addressed to the sound discretion of the Supreme Court of Nevada and may issue when there is no plain, speedy and adequate remedy at law.

STATE V. SECOND JUDICIAL DISTRICT COURT ex rel County of Washoe 11 p3d

1209, NEV (2000)

A writ of mandamus is issued to compel performance of an act which the law especially enjoins as a duty resulting from an office, trust or station.

LEWIS V. STEWART 619 p2d 1212, 96 NEV 846 (1980)

A writ of mandamus may issue to control arbitrary or capricious exercise of discretion.

BARNES V. EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for Clark County 748 p. 2d 483, 103 NEV 679 (1987)

This court has also held that the action being sought to be compelled must be one already required by law.

MINERAL COUNTY V. STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES 20 p3d 800, NEV (2001)

Mandamus is the appropriate vehicle for challenging contested orders entered by the District Court.

ANGELL V. EIGHTH JUDICIAL DISTRICT COURT in and for the County of Clark 839 p. 2d 1329, 108 NEV 923 (1992)

It has been held that a writ of mandamus is proper when the petitioner raises urgent and important issue(s) of law requiring clarification by the Supreme Court.

PAULICE V. DOUGLAS COUNTY 3 p. 3d 661, NEV (2000)

1 "The denial of summary judgment is reviewable by proceeding in mandamus"
2 Sorenson v. Paulikowski 94 Nev 440, 581 p.2d 851 (1978); Lapica v
3 Eighth Judicial Dist. Court ex rel County of Clark 97 Nev 86, 624 p.2d
4 1003 (1981)
5 "writ of mandamus will issue to compel entry of a summary judgment
6 when there is no genuine issues as to any material fact and the movant
7 is entitled to judgment as a matter of law."
8 Sandler v. Eighth Judicial Dist. Court ex rel County of Clark, 96 Nev
9 622, 614 p.2d 10 (1980)
10
11 plaintiff/petitioner contends he discovered an argument to be used
12 to assert questions regarding his conviction. specifically the
13 validity or legality of his conviction, the constitutionality or
14 unconstitutional nature of his conviction.
15
16 the laws that are passed by the state legislature are prima facie evidence
17 that it has been passed, but laws that are issued and published by
18 the secretary of state are irrefutable proof that the law exists. statutes
19 are presumed to be valid, and the challenger bears the burden of showing
20 that a statute is unconstitutional
21 Hulverson v. Secretary of State 124 Nev 484, 487, 186 p.3d at 896 (2008)
22 plaintiff requested from the office of SECRETARY OF STATE a certifi
23 ed copy of S.B. NO. 2, 1957 SENATE BILL NO. 2 "THE REVISION BILL"
24 along with certified proof it was read (3) three times over three (3) days
25 in each house.
26 plaintiff/petitioner was sent a response stating that the
27 defendant/respondent is not in control/possession of these documents.
28 complaint was filed in 11th Judicial District Court case No. 27-CV-0003

1 2019-0039

2 proper service was effected after an honest, inadvertent mistake was
3 made on plaintiff/petitioners behalf. He then to make things more
4 clear, more specific for counsel to understand submitted his (2nd)
5 second Amended complaint.

6

PARAMOUNT LAW

7 CONSTITUTION OF NEVADA ART. 5 § 20 (1864)

8 NRS 225.080 General Duties:

9 The Secretary of State SHALL (1) attest all the official acts and proceedings
10 of the Governor, and affix the seal of the state, with proper attestations; to
11 all commissions, pardons and other public instruments to which the
12 signature of the Governor is required. A copy of these instruments MUST be
13 filed in the office of the Secretary of State.

14 NRS 225.100 DUTY TO FURNISH CERTIFIED COPIES OF LAWS, RECORDS AND
15 INSTRUMENTS The Secretary of State SHALL furnish, on request, to any
16 person who has paid the proper fee for it, a certified copy of all or any
17 part of any law, act, record or other instrument or writing on file or
18 deposited in his/her office of which a copy may properly be given
19 on January 5th, 2015 & January 7th, 2019 Defendant/Respondant signed
20 pursuant to CONSTITUTION OF NEVADA ARTICLE 15 § 2 Her OATH

21 OF OFFICE by not having said documents, admitting as much
22 Defendant/Respondant has broken Her OATH OF OFFICE as well as
23 violated the US. CONSTITUTION & NEVADA CONSTITUTION

24 NRS 0.025 use of "MAY" "MUST" and "SHALL" imposes a duty to act.
25 Defendant/Respondant cegauske was/~~is~~ sued in her individual capacity
26 as she signed Her oath as a private person.

27 "... An officer may be held liable in damages to any person injured in
28 consequence of breach of any of the duties connected with his office..."

1. The liability of nonfeasance, malfeasance, and for malfeasance in office
2. in His/Her 'individual' not His official capacity" Redfield v Fisher 292
3. p 813 at 819 (1930)
4. counsel contends/contended that plaintiff/petitioner did/does not
5. have a private right of action which is simply not true. "A Federal
6. private ^{cause} ~~right~~ of action for a state official's actions contrary to His/
7. Her oath of office unless that action otherwise violated a statute
8. affording the plaintiff a private Right of Action or violated the
9. plaintiff's constitutional Rights forming the basis of a § 1983 action.
10. Etherton v City of Rainsville (2015) U.S. Dist Lexis 141650
11. "in observing state statutes they are a 'CONTRACT' that must be
12. observed. Here, all of the above statutes such as NRS 225.080, 225.100,
13. 6.025 have a legislative intent, to create a private Right that should
14. they be ignored, are through civil litigation enforceable against the
15. state. Acio et al v Masto et al 670 F.3d 1046, 1065 (9th Cir 2012),
16. Flag v Yonkers 581 F.2d 307, 317 (2d Cir 1978); Halloway v
17. Barrett 87 N.W.385, 392, 487 p2d 501 (1970) Fed Const Art I § 10, NEU
18. CONST ART 1 § 9 u/s compare Dodge v Bd of Education 302 U.S. 74, 78,
19. 58 S.Ct 98 (1937) with & in addition the statutes governing interpretation
20. and enforcement of contracts such as NRS 6.025 "SHALL" "MUST" are part
21. of their Aegis, as express terms, set by the legislature Indiana ex rel
22. Anderson v Brand 303 U.S. 95, 104, 58 S.Ct 443 (1938)
23.
24. in response to plaintiff/petitioner's motion for summary judgment
25. counsel argues NRS 378.255(3) which states the following:
26. Establish standards for the preparation of schedules providing for the
27. retention of state records of continuing value and for the prompt and
28. orderly disposition of state records which no longer possess sufficient

1 administrative, Fiscal, legal or Research value to warrant their further
 2 retention. ⁶⁶ THE REVELSON BILL ⁹⁹ AKA S.B. No 2 i.e. SENATE Bill No 2 (1957)
 3 is ~~the~~ ^{allegedly} the Act/Bill that enacted the NRS to prove or disprove what
 4 plaintiff/petitioner would/will argue in regards to HIS conviction
 5 is contained within the original document(s)
 6 these documents cannot be produced by request of Her office. The
 7 mere fact that counsel argues NRS 378.255 is fraud upon the court.
 8 (1) CONST. OF NEV. ART 5 § 20, ART 15 § 2 are PARAMOUNT LAW.
 9 (2) when a statute comes into conflict with the constitution the
 10 statute MUST yield
 11 ⁶⁶ A STATE CONSTITUTION is binding on the courts of the state and on
 12 every OFFICER and every citizen, any attempt to do that which is prescribed
 13 in any manner than that prescribed, or to do that which is
 14 prohibited is repugnant to the supreme and paramount Law, and void ⁹⁹
 15 Dorch v. Patterson 39 Nev 251, 268, 156 p 439, 445 (1916).
 16 "we are bound to interpret the constitution in the light of the Law as it
 17 existed at the time it was adopted" Mattox v. U.S. 156 U.S. 237, 243
 18 (1895).
 19 "in addition the statutes governing interpretation and enforcement of
 20 contracts such as NRS 0.025 "SHALL" "MUST" are part of their Legis.
 21 As express terms, set by the legislature Indiana ex rel Anderson v. Brand
 22 303 U.S. 95, 104, 58 S.Ct 443 (1938).
 23 "to claim a breach of contract the pleading party must allege (1) the
 24 existence of a contract; (2) Defendants performance or excuse for non
 25 performance; (3) Defendants breach; and (4) Damages. Sauer v. Prudential
 26 INS. CO. v. S. Dist lexis 125205 c. 01st (cal. 2011); Ronald Dreichter v
 27 General INS. CO. et al 68 cal 2d 822, 422 p2d 337, 69 cal Rpt 321 (1968)
 28 plaintiff contends the following:

1 that the information he has read, (if factual) is irrefutable evidence to
2 prove or disprove his conviction as either CONSTITUTIONAL or UNCONSTITU
3 TIONAL. By the OFFICE OF SECRETARY OF STATE not being in control of
4 said records, Cegauske not ensuring she is able to perform one of the
5 duties she was elected to perform is a violation of plaintiff's/petition
6 er's FIRST (1st) Amendment & FOURTEENTH (14th) Amendment rights
7 pursuant to U.S. CONSTITUTION, along with CONST OF NEV. ART 1 § 8
8 which should provide the plaintiff/petitioner the opportunity to "ESTABLISH
9 ANY FACT", which according to usages of common law or provisions of
10 the constitution, would be protection to the petitioner/plaintiff
11 WRIGHT V CRADLEBAUGH, 3 NEV 341 (1867), cited PERSHING PERSHING V
12 RENO STOCK BROKERAGE CO., 30 NEV 342, 349, 96 pae 1054 (1908)
13 That, based upon the allegation's etc., set forth here in that
14 further exploration into this matter is warranted by the DISTRICT
15 COURT. RUBIO V STATE, 124 NEV 1032, 1046, 194 P3d 1224, 1234 (2008);
16 HARGROVE V STATE, 100 NEV 498, 502, 686 p. 2d 222, 225 (1984)
17 Due process is not a rigid concept due process is flexible and calls
18 for such procedural protections as particular situation demands.
19 WATSON V HOUSING AUTHORITY, 97 NEV 240, 842, 627 p2d 405, 407
20 (1981), cited MOLNAR V STATE Bd OF Medical Examiner, 105 NEV
21 213, 216, 753 p. 2d 726, 727 (1989)
22 The plaintiff/petitioner asserts that the NEVADA SUPREME COURT
23 is "NOT" a "FACT FINDING TRIBUNAL" see PEEK V STATE, 116 NEV
24 840, 846, 7 P3d 470, 474 (NEV 2000) ZUGEL V MILLER, 99 NEV 100, 101,
25 , 659 p2d 296, 297 (NEV 1983), ZOBELIST V SHERIFF, 96 NEV 625,
26 626, 614 p2d 538 (1980)
27 The plaintiff contends he has set forth a valid claim as his not
28 being able to obtain said records is a violation of his due process

1 Rights, as well as CONST OF NEV ART 5 § 20 & ART 15 § 2
2 "is. An officer may be held liable in damages to any person injured
3 in consequence of a breach of any of the duties connected with his
4 office... the liability of nonfeasance, malfeasance and for
5 malfeasance in office is in his 'individual' not his official capacity"
6 Cegauske is sued in her 'individual' capacity
7 Redfield v Fisher 292 p 813 at 819 (1930)
8 "A federal private cause of action for a state official's actions
9 contrary to his/her oath of office unless that action otherwise
10 violated a statute affording the plaintiff a private right of action
11 or violated the plaintiff's constitutional rights forming the basis
12 of a § 1983 action" ETHERTON v City of Rainsville (2015) U.S. DIST
13 LEXIS 141650
14 Her oath of office is the contract. Defendant is in violation of
15 not only her oath ART 15 § 2; also ART 5 § 20 CONST OF NEV
16
17 The CONSTITUTION OF NEVADA ARTICLE 5 § 20 as well as ARTICLE 15 § 2
18 are unambiguous, and very plain in their meaning and wording. All
19 LEGISLATIVE ACTS passed in Nevada are to be deposited "in the office of
20 THE SECRETARY OF STATE FOR PRESERVATION further more pursuant to
21 CONST OF NEVADA ARTICLE 15 § 2 Judges, Lawyers, Court officers,
22 etc take an oath of office that requires protecting the federal and
23 state constitutions, Honoring and sustaining the same. Also, exercising
24 Honesty and integrity etc.

FRAUD UPON THE COURT

26 For counsel to make any argument & to expect any court to except
27 that A STATUTE/NRS supersedes the CONSTITUTION is an act
28 OF FRAUD.

1 "Fraud in its elementary common law sense of deceit... includes the
2 deliberate concealment of material information in a setting of
3 fiduciary obligation. A public official is a fiduciary toward the public.
4 ...and if he/she deliberately conceals material information from them,
5 he/she is guilty of fraud." "the law requires proof of jurisdiction to
6 appear on the record of the Administrative agency and all Administrative
7 proceedings" Donnelly v. Dechristoforo 1974 S.Ct 41709 II 56;
8 416 U.S. 637 (1974) McNally v. U.S. 483 330 371-372 quoting U.S. v
9 Holzer 816 F.2d 304, 307.

10 INJURY TO, CONCEALMENT OR FALSIFICATION
11 OF RECORDS OR PAPERS BY PUBLIC OFFICERS

12 NRS 239.320 AN OFFICER who mutilates, destroys, CONCEALS,
13 ~~erases~~, erases, obliterates or falsifies any record or paper appertaining
14 to his or her office is guilty of a category C felony and shall be
15 punished as provided in NRS 193.130 as to the withholding or stealing
16 public records by OFFICER see NRS 281.190
17 by and or through counsel Douglas R Rands Cegauske offers false
18 instrument for filing or record, in violation of NRS 239.330
19 "A person who knowingly procures or offers any false or forged
20 instrument to be filed, registered or recorded in any public office,
21 which instrument, if genuine, might be filed, registered or
22 recorded in a public office under any law of this state or of the
23 united states, is guilty of a category C felony and SHALL be
24 punished as provided in NRS 193.130
25 counsel Rands in opposition to plaintiffs/petitioners motion for
26 summary judgment on page 4 Lines 17 through 23. argues NRS
27 378.255 (3) (in dark print states) establish standards for the preparation
28 of schedules providing for the RETENTION OF STATE RECORDS OF A COUNTY

1 UNUS VALUE and for the prompt and orderly disposition of STATE RECORDS
2 WHICH NO LONGER POSSESS SUFFICIENT ADMINISTRATIVE, FISCAL, LEGAL
3 OR RESEARCH VALUE TO WARRANT THEIR FURTHER RETENTION.
4 ^{NOW} ~~now~~ lets back up a moment here. "CANT HAVE IT BOTH WAYS"
5 "standards for the preparation of schedules providing for the retention of
6 state records of continuing value" ~~is not this~~ is this not covered
7 by the NEVADA CONSTITUTION ART 5 § 20, now it goes on to state
8 and for the prompt and orderly disposition of state records which
9 NO LONGER POSSESS SUFFICIENT ADMINISTRATIVE, FISCAL, LEGAL or
10 Research VALUE TO WARRANT THEIR FURTHER RETENTION.
11 "A person of reasonable logic would infer that the Secretary of state
12 being an 'elected official' is bound not only by Her OATH OF OFFICE &
13 also by the CONSTITUTION OF NEVADA ART 5 § 20 it self.
14 An act passed by the legislature, voted on by the people/citizens
15 of Nevada Always belong in the Repository of Secretary of state.
16 What is interesting with Defendants opposition is the following
17 assertion by counsel. DISPOSITION OF STATE RECORDS WHICH NO LONGER
18 POSSESS SUFFICIENT ADMINISTRATIVE, FISCAL, LEGAL OR RESEARCH
19 VALUE TO WARRANT THEIR FURTHER RETENTION S.B. NO 2 1957
20 SENATE BILL NO 2 AKA "THE REVISION BILL" was passed, enacting the
21 NRS as such, to state, or use a statute that declares an act of the 48TH
22 LEGISLATIVE SESSION of no longer possessing ~~any~~ sufficient administrative,
23 fiscal, legal or research value to warrant their further retention.
24 is to say that the NRS are of no sufficient administrative, fiscal,
25 legal or research value to warrant their further retention.
26 which brings plaintiff/petitioner back to NRS's/STATUTES CITED
27 here in. further more plaintiff/petitioner points respectfully to NRS
28 484 B 653 "A person who performs any act, neglects any duty imposed

1 by Law in willfull or wanton disregard of the safety of persons or
2 property SHALL be punished (1) if the act or neglect does not result in the
3 substantial Bodily harm or death of a person, for a gross misdemeanor.
4 Defendant/Respondant Cegauske pursuant to CONST OF NEV ART 5 § 20
5 has a duty to be in possession of & for the preservation of All Acts
6 passed by the NEV. LEGIS.

7 SUMMARY JUDGMENT

8 "Summary Judgment is the put up or shut up moment in a lawsuit and
9 the failure of the plaintiff or defendant to show what evidence he has
10 to convince a trier of fact to except his version of the facts will
11 result in summary judgment for the opposing party" Lindell v
12 Casperson 360 F Supp 2d 932, 953 (W.D. W.I. 2005) quoting Johnson
13 v Cambridge Industries Inc. 325 F.3d 892, 901 (7th Cir 2003)
14 "When the moving party also bears the burden of persuasion at trial
15 to prevail on summary judgment it must show that the evidence is so
16 powerful that no reasonable jury would be free to disbelieve it" Shakur
17 v Schriro 514 F.3d 878, 890 (9th Cir 2008) citing Edison v Reliable
18 Life Ins Co 664 F.2d 1130, 1131 (9th Cir 1981)
19 "Summary Judgment is properly granted when, as a matter of law,
20 the moving party is entitled to the judgment because there is no
21 genuine issue as to any material fact" Prostaek v Songailo 97 Nev
22 38, 623 p.2d 978 (1981), Lapica v Eighth Judicial Dist. Ct. ex rel
23 Clark County 97 Nev 86 624 p.2d 1003 (1981)
24 "If the defendants fail to make a sufficient showing of an essential
25 element of a claim with respect to which they have the burden of proof then
26 the plaintiff(s) are entitled to judgment as a matter of law" ~~Hancock~~
27 Hancock v Thalacker 933 F. Supp. 1449, 1470 (W.D. Pa. 1996) quoting
28 ~~Celotex~~ Celotex Corp v Carrett 477 U.S. 317 323 (1986)

DUAL SERVICE

counsel repeatedly contends that dual service was never effected.
plaintiff/petitioner filed on November 4th, 2019 "Plaintiff's reply
to defendant's motion to dismiss." where as attached as exhibits 1, 2
are Declaration of Service showing service was completed on 8/23/2019
at 2:34 pm. The documents served were summons & Amended complaint.

plaintiff/petitioner mistakenly only served the office of Attorney General
He filed his amended complaint (1st Amended comp) to satisfy the OAG
as to dual service, including the office of Sec of State. Then in February
2021 He filed and Amended complaint putting more detail into how his
due process rights under U.S. CONST 1st AMEND, 14th Amend as well as
CONST OF NEV ART 1 § 8

with the fact that plaintiff/petitioner is unable to obtain from
the defendant's documents, records, papers, files that defendant is
mandated by CONST OF NEV ART 5 § 20 to be in control of, & who
pursuant to CONST OF NEV ART 1 § 2 where she swears an oath
to support & defend the U.S. CONST; All its Amendments as well as the
NEV CONST; All its Articles.

not being able to properly research, properly argue his issues on
appeal are effectively blocked violating his right to due process
where defendant, through counsel is unable to provide a certified
copy of the original document signed by the Governor in 1957 as
her office is not in legal & constitutionally mandated control of
said document(s).

Therefore due process is gone.

CONCLUSION

FACTS UNDISPUTED:

Defendant Regawke was/is an elected official, as such she signed an oath of office pursuant to ~~the~~ CONST OF NEV ART 15 § 2 to uphold & defend the UNITED STATES CONSTITUTION, ALL ITS AMENDMENTS along with CONST OF NEVADA & ALL ITS ARTICLES. With this failure to adhere to her sworn oath as well as her failure to adhere to CONST OF NEV ART 15 § 2 "The Constitution is a written instrument, as such its meaning does not alter, that ^{which} it meant when it was adopted, it means now" S. Carolina v. U.S. 19 U.S. 413, 448 (1905); Mattox v. U.S. 156 U.S. 237, 243 (1895)

There is no issue of material fact for a jury to decide, therefore plaintiff/petitioner in this matter would respectfully request this Honorable court to enter an order that in the interest of justice, for judicial economy issue an order that Eleventh Judicial District enter an order for this ^{COURT} case to further this case along.

"Justice Delayed is Justice Denied" Dougan v. Gustafson, 108 Nev. 517, 835 P.2d 797, 794 (1992)

As the Constitution is the Supreme and Paramount Law. Where there is conflict between an act of the legislature and the constitution of the state the statute must yield to the extent of the repugnancy.

STATE ex rel Moon v. STATE Bd. of Examiners 104 Idaho 640, 648, 662 P.2d 221, 229 (Idaho 1983)

VERIFICATION

I Bryan P Bonham declare and verify that I have read the foregoing
petition for writ of mandamus and to the best of my belief &
knowledge, that the foregoing is true & correct under the pains &
penalties of perjury pursuant to 28 U.S.C.A. § 1746 & 18 U.S.C.A. § 1621.

CERTIFICATE OF SERVICE

I Bryan P Bonham certify that I have read the foregoing petition for
writ of mandamus, & have attached special instructions for electronic
filing & service to the clerk of the court to serve all my opponents
pursuant to N.E.F.C.R. 5(E), 9 et seq (A-E) etc, to the following.

Deputy Attorney General
Douglas R Rands
100 N Carson St.
Carson City, NEV 89701

Dated this 14th day of November 2021.

15/11/2021

Bryan P Bonham 60575
PO Box 650 (HOSP)
Indian Springs, NEV 89070