

*Steven D. Grierson*

Janet Solander #1200370  
FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER  
4370 SMILEY ROAD  
LAS VEGAS, NV 89115

In the 8<sup>th</sup> Judicial District Court of the State of Nevada  
In and for the County of Clark

Electronically Filed  
Dec 07 2021 03:49 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Janet Solander )  
Appellant/Plaintiff/Petitioner

v.

Case No. A-21-840177-W

State of Nevada )  
Appellee/Respondent/Defendant

**NOTICE OF APPEAL**

Notice is hereby given that Janet Solander, Petitioner above named in the above captioned case, hereby appeals to the **SUPREME COURT FOR THE STATE OF NEVADA** from the final judgment for HABEAS CORPUS POST CONVICTION entered on the 23<sup>rd</sup> day of November, 2021.

Dated this 23<sup>rd</sup> day of November, 2021

Respectfully submitted,

Janet Solander Petitioner  
Signature/ Pro Se Litigant

Janet Solander  
Print Name

RECEIVED  
NOV 29 2021  
CLERK OF THE COURT

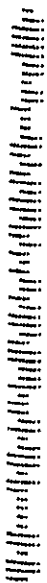
Janet Solander  
FNUCE 1300370  
4370 Smiley Rd.  
Las Vegas, NV 89115

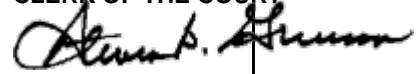
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CLERK OF COURT  
8th JUDICIAL DISTRICT  
200 LEWIS AVE  
LAS VEGAS, NV 89105

89101-630000





1 ASTA

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

10 JANET SOLANDER,

11 Plaintiff(s),

12 vs.

13 STATE OF NEVADA,

14 Defendant(s),  
15

Case No: A-21-840177-W

Dept No: XV

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Janet Solander

20 2. Judge: Joe Hardy

21 3. Appellant(s): Janet Solander

22 Counsel:

23 Janet Solander #1200370  
24 P.O. Box 650  
Indian Springs, NV 89070

25 4. Respondent (s): State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89155-2212

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

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

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

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

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, August 30, 2021

8 \*\*Expires 1 year from date filed

9 Appellant Filed Application to Proceed in Forma Pauperis: N/A

10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: August 26, 2021

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

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

14 11. Previous Appeal: No

15 Supreme Court Docket Number(s): N/A

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 1 day of December 2021.

19 Steven D. Grierson, Clerk of the Court

20  
21 /s/ Heather Ungermann

22 Heather Ungermann, Deputy Clerk

23 200 Lewis Ave

24 PO Box 551601

25 Las Vegas, Nevada 89155-1601

26 (702) 671-0512

27 cc: Janet Solander  
28

Janet Solander # 1200370  
FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER  
4370 SMILEY ROAD  
LAS VEGAS, NV 89115

Steven D. Grierson

In the 8<sup>th</sup> Judicial District Court of the State of Nevada  
In and for the County of Clark

In the matter of:

Janet Solander )  
Appellant/Plaintiff/Petitioner

v.

Case No. A-21-840177-W

State of Nevada )  
Appellee/Respondent/Defendant

**DESIGNATION OF RECORD ON APPEAL**

COMES NOW Appellant, Janet Solander, a pro se litigant and hereby designates the entire record of the above-captioned case to include all pleadings, transcripts, papers, and documents for the NOTICE OF APPEAL IN THE SUPREME COURT FOR THE STATE OF NEVADA.

Appellant also requests that the District Court include in this Designation of Record, as applicable, the following documents:

1. ORDER
2. NOTICE OF ENTRY OF ORDER
3. FINDINGS OF FACT AND LAW

Dated this 23<sup>rd</sup> day of November, 2021

Respectfully submitted,

Janet Solander ) Appellant  
Pro Se Litigant

Janet Solander  
Print Name

CERTIFICATE OF MAILING

STATE OF NEVADA

COUNTY OF

Clark

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: A-21-840177-W

On this 23<sup>rd</sup> day of November, 2021, I mailed a copy of the

Following document(s):

1. NOTICE OF APPEAL

2. DESIGNATION OF RECORD ON APPEAL

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

By United States First Class Mail, to the following addresses:

1. Clark of Court  
8<sup>th</sup> Judicial District  
200 Lewis Ave  
Las Vegas, NV 89155

2. Attorney General - Nevada  
555 E. Washington Ave. St. 3900  
Las Vegas, NV  
89101

3. Janet Solander  
FMW 1200370  
4370 Smiley Rd.  
Las Vegas, NV 89115

Dated this 23<sup>rd</sup> day of November, 2021.

Respectfully submitted,

Janet Solander

Signature

Janet Solander

Printed Name

1 This document does not contain the personal information of any person as  
2 defined by NRS 603A.40.

3  
4 DECLARATION UNDER PENALTY OF PERJURY

5 I, the undersigned, understand that a false statement or answer to any question in this declaration will  
6 subject me to penalties of perjury.

7 I declare, under the penalty of perjury under the laws of the United States of America,  
8 that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed  
9 within the terms of <sup>1</sup>NRS 171.102 and <sup>2</sup>NRS 208.165. See <sup>3</sup>28 U.S.C. 1746 and 18 U.S.C. 1621.

10 Dated this 23rd day of November, 20 21

11 Janet Solander  
12 Signature

13 1200370  
14 Nevada Department of Corrections ID #

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26 <sup>1</sup> NRS 171.102

27 <sup>2</sup> NRS 208.165

28 <sup>3</sup> 28 U.S.C.

\$1746. Unsworn declarations under penalty of perjury  
18 U.S.C.

\$ 1621. Perjury generally

## EIGHTH JUDICIAL DISTRICT COURT

# CASE SUMMARY

## CASE NO. A-21-840177-W

Janet Solander, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

§  
§  
§  
§  
§

Location: **Department 15**  
Judicial Officer: **Hardy, Joe**  
Filed on: **08/26/2021**  
Cross-Reference Case Number: **A840177**

### CASE INFORMATION

#### Related Cases

C-14-299737-3 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

#### Statistical Closures

11/10/2021 Summary Judgment

Case Status: **11/10/2021 Closed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-21-840177-W  
Court Department 15  
Date Assigned 08/26/2021  
Judicial Officer Hardy, Joe

### PARTY INFORMATION

**Plaintiff** Solander, Janet

*Lead Attorneys*

**Pro Se**

**Defendant** State of Nevada


**Wolfson, Steven B**  
*Retained*  
702-671-2700(W)


### DATE


### EVENTS & ORDERS OF THE COURT


### INDEX


#### EVENTS


08/26/2021  Inmate Filed - Petition for Writ of Habeas Corpus  
Party: Plaintiff Solander, Janet  
[1] Post Conviction

08/26/2021  Request  
Filed by: Plaintiff Solander, Janet  
[2] Request for Submission of Motion

08/26/2021  Motion for Appointment of Attorney  
Filed By: Plaintiff Solander, Janet  
[3] Motion for Appointment of Attorney

08/26/2021  Motion  
Filed By: Plaintiff Solander, Janet  
[4] Motion to Withdraw Counsel

08/26/2021  Application to Proceed in Forma Pauperis  
Filed By: Plaintiff Solander, Janet  
[5]

08/30/2021  Order to Proceed In Forma Pauperis



**CASE SUMMARY**  
**CASE NO. A-21-840177-W**

[6] Order to Proceed in forma Pauperis

08/30/2021



Order for Petition for Writ of Habeas Corpus

[7] Order for Petition for Writ of Habeas Corpus

08/31/2021



Clerk's Notice of Hearing

[8] Notice of Hearing

10/01/2021



Response

Filed by: Defendant State of Nevada

[9] State's Response to Petition for Writ of Habeas Corpus (Post-Conviction)

11/10/2021



Findings of Fact, Conclusions of Law and Order

Filed By: Plaintiff Solander, Janet

[10] Findings of Fact, Conclusions of Law, and Order

11/15/2021



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Defendant State of Nevada

[11] Notice of Entry of Findings of Fact, Conclusions of Law and Order

11/29/2021



Notice of Appeal

[12] Notice of Appeal

11/29/2021



Designation of Record on Appeal

[13] Designation of Record on Appeal

12/01/2021



Case Appeal Statement

Filed By: Plaintiff Solander, Janet

Case Appeal Statement

**HEARINGS**

10/28/2021

**Petition for Writ of Habeas Corpus (8:30 AM)** (Judicial Officer: Hardy, Joe)

Denied;

10/28/2021

**Motion to Withdraw as Counsel (8:30 AM)** (Judicial Officer: Hardy, Joe)

Plaintiff's Motion to Withdraw Counsel

Motion Granted;

10/28/2021

**Motion for Appointment of Attorney (8:30 AM)** (Judicial Officer: Hardy, Joe)

Plaintiff's Motion for Appointment of Attorney

Motion Denied;

10/28/2021



**All Pending Motions (8:30 AM)** (Judicial Officer: Hardy, Joe)

Matter Heard;

Journal Entry Details:

*PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR APPOINTMENT OF ATTORNEY...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL The State present via Blue Jeans. The Court noted that it reviewed the Petition for Writ of Habeas Corpus, the Motion for Appointment of Attorney, the Motion to Withdraw Counsel, and the State's Response. Without hearing any oral argument, COURT ORDERED the Petition for Writ of Habeas Corpus, as well as the Plaintiff's Motion for Appointment of Attorney, were hereby DENIED. COURT FURTHER ORDERED the Motion to Withdraw Counsel, was hereby GRANTED. The COURT FOUND the following: (1) the Plaintiff did not have a right to counsel on a post-conviction Petition; (2) the Court may use its discretion to appoint counsel under appropriate circumstances; however, those circumstances were not present in the instant case; and (3) the substance of the Petition for Writ of Habeas Corpus was substantively denied for all of the reasons set forth in the State's Response. The State to prepare the written Order,*

**CASE SUMMARY**

**CASE NO. A-21-840177-W**

*incorporating the reasons set forth in its Response as the Court's Findings, and submit it directly to chambers. COURT ORDERED a status check regarding the submittal of the written Order, was hereby SET on this department's chambers calendar. 11/18/21 (CHAMBERS) STATUS CHECK: SUBMITTAL OF ORDER CLERK'S NOTE: A copy of this minute order was provided to Plaintiff via U.S. mail: Janet Solander #1200370 [Florence McClure Womens Correctional Center 4370 Smiley Road Las Vegas, NV 89115]. (KD 10/28/21);*

## DISTRICT COURT CIVIL COVER SHEET

A-21-840177-W

County, Nevada

Dept. 15

Case No.

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Janet Solander	Defendant(s) (name/address/phone): State of Nevada
Attorney (name/address/phone):	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

August 26, 2021

Date

PREPARED BY CLERK

Signature of initiating party or representative

See other side for family-related case filings.

*Heather S. Linn*

CLERK OF THE COURT

**FCL**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

JANET SOLANDER,  
#5870905

Petitioner,

-vs-

CASE NO: A-21-840177-W

DEPT NO: XV

THE STATE OF NEVADA,

Respondent.

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

THIS CAUSE having been decided by the Honorable Joe Hardy, District Judge, pursuant to a Minute Order issued on the 28th day of October 2021, the State present via Blue Jeans, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On July 28, 2014 the State filed an Information that charged Janet Solander (hereinafter  
4 “Petitioner”) with CHILD ABUSE, NEGLECT OR ENDANGERMENT WITH  
5 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.508(1) - NOC 55222),  
6 CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS 200.508(1)  
7 - NOC 55226), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF  
8 AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), ASSAULT WITH USE OF  
9 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201) and BATTERY  
10 WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400.4 -  
11 NOC 50157).

12 Petitioner sought pre-trial habeas relief on November 5, 2014. She alleged a failure to  
13 establish probable cause and that sexual assault was a specific-intent crime requiring sexual  
14 motivation. The State filed a Return on December 17, 2014. On June 17, 2015, the District  
15 Court granted relief in part.

16 Both Petitioner and the State appealed, and, on April 13, 2016, the Nevada Supreme  
17 Court reversed. While agreeing that “if the Solanders undertook the catheterization for a bona  
18 fide medical purpose, they may avoid criminal liability,” the Court held that jurors should  
19 determine whether Solander had such a purpose. The Court explicitly rejected the Petitioner’s  
20 argument that sexual assault “includes an element of sexual motivation or gratification.”

21 On January 4, 2018, the State filed their Notice of Expert Witnesses. Petitioner sought  
22 to strike on January 28, 2018. The State opposed on February 2, 2018.

23 The State filed a prior-bad-acts motion seeking to admit evidence of Petitioner’s abuse  
24 of foster children. Petitioner opposed on January 18, 2018.

25 On January 22, 2018, Petitioner’s co-defendant filed a motion to suppress victim  
26 interviews. Petitioner joined. The State responded on February 1, 2018.

27 On January 31, 2018, the District Court began a two-day hearing on the prior-bad-acts  
28 motion.

1 A twenty-day jury trial began on February 5, 2018. On February 6, 2018, the State filed  
2 an Amended Information. The jury found Petitioner guilty of each count.

3 Petitioner was sentenced on June 5, 2018. Her sentence included eleven counts of thirty-  
4 five years to life for the sexual-assault counts. The other sentences ran consecutive to each  
5 other. The Judgment of Conviction was filed on June 22, 2018.

6 A Notice of Appeal was filed on June 21, 2018. On October 27, 2020, the Supreme  
7 Court of Nevada affirmed the Judgment of Conviction. Remittitur issued October 26, 2020.

8 On August 26, 2021, Petitioner filed the instant Petition. On August 30, 2021, the Court  
9 ordered the State to respond.

### 10 **FACTUAL BACKGROUND**

11 This case involves the systemic abuse of three young girls over a period of several  
12 years. The oldest, A.S.(2001), was born on October 21, 2001. The middle sister, A.S.(2003),  
13 was born on January 23, 2003. The youngest, A.S.(2004), was born on July 25, 2004.

14 The sisters were removed from their biological families. After a short time with another  
15 family, they were placed with Debbie McClain. They lived with McClain for a year and a half.  
16 A.S.(2001) and A.S.(2003) were potty trained and did not have accidents during their time  
17 with McClain. McClain fed the sisters regular food, but A.S.(2004) was a picky eater. During  
18 their time with McClain, the girls did not have “any scars either to the flanks of their body,  
19 their buttocks, [or] their upper thighs.”

20 The girls were fostered to the Solanders. The Solanders ultimately adopted them. They  
21 lived in two different houses during their time with the Solanders. The first home, when they  
22 were foster children, was on “Jubilee.” The second was on “Wakashan.”

23 In the Jubilee house, Petitioner implemented rules about using the bathroom. They had  
24 to ask before using the toilet, and Petitioner would set a timer on either her phone or a physical  
25 timer for “however much time she felt like” the girls needed to “hold it.” They could not use  
26 the toilet until the timer was up.

27 The girls were fed regular food at Jubilee for a short period of time. Eventually,  
28 Petitioner changed their diet, alleging that A.S.(2001) had Crohn’s disease. During the time

1 that the sisters were foster children, Petitioner did not physically punish them. This changed  
2 after adoption. Petitioner would make them sleep on boards or towels with a cold fan blowing  
3 on them in only their underwear. The other foster children had their own beds. Danielle Hinton  
4 remembered her mother threatening the sisters with "the fan" if they acted up, even in the  
5 wintertime.

6 After the adoption, Petitioner's toileting rules remained rigid. The girls still had to ask,  
7 and only after they had asked, Petitioner would start the timer. Petitioner would get upset with  
8 the girls for not asking earlier. They found it confusing that they had to first ask, and they  
9 sometimes got in trouble when they had to go too much when the timer finally rang. At times,  
10 they would have to wait so long either after Petitioner started the timer or during the middle  
11 of the night that they would wet themselves. Petitioner counted the squares of toilet paper the  
12 girls could use. Because they were so limited, their feces would sometimes leave marks on  
13 their underwear. The Solanders would check the sisters' underwear for these marks. These  
14 rules were corroborated by Jan Finnegan and Hinton. Petitioner would make them sit on  
15 buckets and the youngest sit on a tiny toilet all day with their underwear pulled slightly down  
16 rather than letting them use the toilet as needed. Hinton saw the girls use their buckets as  
17 toilets.

18 Even during the night, the girls had to ask before they could go to the bathroom.  
19 Eventually, Petitioner revoked nocturnal toileting. A camera faced the upstairs bathroom.  
20 Having been forbidden from using the toilet at night, the girls would soil themselves. Dwight  
21 Petitioner enforced this rule by placing gates and alarms on a bathroom door. He was often  
22 out of town for work, meaning that Petitioner was the main instigator of punishments.

23 The girls developed a fear of toileting. This led to multiple accidents daily. When the  
24 girls were left in the care of others, the toileting problems would cease.

25 Petitioner kicked the girls up and down the stairs. When they were showering, she  
26 would pour ice on them. Hinton saw her mother get the ice and heard the girls scream.

27 If they had an accident, the Solanders would beat them with paint sticks until they would  
28 bleed and scar. Hinton witnessed these beatings. I.S.(2008), one of the foster children, testified

1 that she saw this "every day" and that Dwight make her and her sister "be the audience" and  
2 laugh at the sisters as they were being beaten. Petitioner would force the girls to put their soiled  
3 underwear into their mouths. Once, after A.S.(2004) had an accident, Petitioner took the paint  
4 stick and inserted it into A.S.(2004)'s vagina. On another occasion, Petitioner burned  
5 A.S.(2004) while she was washing her hands by turning the temperature up and holding her  
6 hands under the water and then splashing her with hot water, badly burning her skin. State's  
7 Exhibit 192. Petitioner forced A.S.(2004)'s head into a toilet filled with excrement and, on  
8 more than one occasion, made her stand naked in a garbage bag as she soiled herself. When  
9 A.S.(2001) had an accident, Petitioner made her lick her own urine off the floor. Another time,  
10 Petitioner slammed A.S.(2001)'s head into a counter repeatedly after she had an accident.  
11 A.S.(2006), a foster child, witnessed Dwight spanking the sisters with their pants down with a  
12 "ruler that was pretty thick." I.S.(2008) remembered seeing each of the sisters being hit with  
13 paint sticks seeing scabs and burns on their bodies from Petitioner burning them with water.

14 The Solanders humiliated the girls by making them crawl on the floor in cloth diapers  
15 saying that they were babies while the foster children and Danielle Hinton watched. As they  
16 crawled doing their "I'm-a-baby chant," the Solanders would make them wear their soiled  
17 underwear on their heads or carry them in their mouths.

18 Dwight Solander purchased six catheters on December 8, 2012, and three days later, on  
19 December 11, 2012, Petitioner sent Dwight a picture of a catheter filled with urine and a  
20 subject line which read "300 cc's." State's Exhibits 204,243. Petitioner also regularly punished  
21 the sisters by inserting catheters into their urethras without their consent and by threatening to  
22 cut their genitalia with a razor blade. She did this to A.S.(2003) once, to A.S.(2001) more than  
23 once, and to A.S.(2004) between 7-8 times. Petitioner had to hold A.S.(2004) down as she  
24 inserted the catheter because she would fight. Hinton heard the Solanders threaten the girls  
25 with catheters and saw a catheter in her house. She told police that the Solanders used catheters  
26 on the girls, but that she couldn't personally watch.

27 Petitioner limited the sisters' meals as punishment for accidents. When they did eat,  
28 their meals were timed and often blended. A.S.(2001) would "usually have baby formula and



1 milk” which was blended occasionally with bread. Other times, she would have oatmeal mixed  
2 with fish, or quinoa. Dinner was collard greens, beans, horseradish, and fish along with  
3 “several other kinds of meat” which Petitioner would blend together.

4 To eat, A.S.(2001) would have to stand by the sink. Jan Finnegan testified that the girls  
5 were required to eat breakfast standing up while the other children in the home could eat at the  
6 table. As A.S.(2001) ate, Petitioner would tell A.S.(2001) that she had ground up a mouse or  
7 a rat into her meal. She would also tell A.S.(2001) that the fish had been alive. For liquids,  
8 A.S.(2001) would get water with medicine or after bathroom breaks. Meals were served  
9 without a drink. She was so thirsty that she would drink water from the shower or brushing  
10 her teeth. Petitioner saw A.S.(2001) drink shower water and slapped her, cutting and bruising  
11 her lip. Finnegan testified that the girls “weren’t allowed” to be given water at dinner, in the  
12 middle of the day, or “[h]ardly ever.”

13 At first, A.S.(2001) would get three meals each day. Then two, breakfast and dinner,  
14 then one, then, at times, none. The Solanders forbade Finnegan from feeding the sisters lunch  
15 even though the other children in the home could eat. The meals caused A.S.(2001) to use the  
16 toilet more. Hungry, A.S.(2001) would sneak into the pantry to get food. Petitioner beat her  
17 with a stick.

18 Petitioner also severely limited A.S.(2003)’s food intake by timing her meals and letting  
19 her go hungry. In response, she would take food in violation of Petitioner’s rules. At times,  
20 she would, while sitting on her bucket, watch Petitioner eat a hearty breakfast and hungrily  
21 wait to be fed. A.S.(2004) was also left to go hungry.

#### 22 *Foster Sibling Corroboration*

23 I.S.(2008) and A.S.(2006) lived with the Solanders as foster children. They  
24 corroborated the sisters’ testimony about Solander’s strict toileting rules. I.S.(2008) testified  
25 that Petitioner would watch the sisters as they used the restroom.

26 Petitioner forbade A.S.(2006) from eating dairy even though she did not have any  
27 stomach problems. After she was removed from the Petitioner house, she did not have any  
28 toileting problems or lactose intolerance.

1 A.S.(2006) further corroborated the sisters' testimony regarding blended food and the  
2 eating conditions. Further, she remembered Petitioner talking about using catheters on one of  
3 the sisters and orange Home Depot buckets in the kitchen.

4 *Jan Finnegan*

5 In January 2013, Finnegan responded to Petitioner's nanny ad. Finnegan observed two  
6 cameras—one in the kitchen and one on the second floor "looking down towards the entrance  
7 of the bathroom."

8 Finnegan corroborated the sisters' testimony about Petitioner's strict bathroom rules  
9 and that the rules did not apply to the other children. When she tried to do laundry, Dwight  
10 told her to refrain so that he could see the sister's underwear. Despite the rules, none of the  
11 children had any toileting accidents during the entire three weeks Finnegan was there. Further,  
12 the sisters did not have any severe tantrums or disturbing emotional behavior.

13 Finnegan corroborated the sisters' testimony that Petitioner would strictly control their  
14 diets while allowing the foster children to eat normal food. The Solanders forbade Finnegan  
15 from giving the girls food outside of breakfast and dinner, they were required to eat breakfast  
16 standing, their food had to be blended, and they could not be given water. To justify this,  
17 Dwight cited vague "intestinal problems." Finnegan would sneak them solid, unblended food  
18 every day without any resulting intestinal problems.

19 Finnegan testified that the sisters were not disobedient and that they were well behaved.

20 *Investigation*

21 On February 26, 2014, Shining Star Therapeutic Services sent a report to CPS about  
22 two of Petitioner's foster children. On February 27, 2014, Yvette Gonzales, a senior family  
23 services specialist with CPS, visited the school of one of the children. She decided to remove  
24 the children.

25 Gonzales reported to the Solander house and asked to see the remaining foster children.  
26 She asked Petitioner where her adoptive daughters were, and Petitioner said they were in  
27 Nebraska but refused to provide contact information. Gonzales said she was "going to file a  
28 missing person's report" if Petitioner did not provide her with more information. Petitioner

1 asked Gonzales to leave, and CPS took the foster children.

2 On February 28, 2014, Gonzales contacted the Las Vegas Metropolitan Police  
3 Department Missing Persons Detail. A detective contacted Dwight, who said the girls were in  
4 Marvelous Grace Academy in Pace, Florida. The director of the academy, Steven Blankenship,  
5 confirmed that the girls were there.

6 Gonzales decided to have someone speak with the sisters. Jackie Henry from the  
7 Department of Family Services contacted the girls. Henry put them in protective custody, and  
8 the Solanders' rights over them were removed. CPS opened an investigation. The police  
9 department was asked to determine if the Solanders had committed any crimes.

10 Gonzales interviewed Dwight and informed him that a protective custody hearing  
11 would be held. On March 5, 2014, the hearing was conducted. The girls were returned to  
12 Nevada and expressed fear over returning to the Solander's home.

13 On March 13, 2014, the girls were examined by Dr. Sandra Cetl. She conducted a sexual  
14 assault assessment of each child. She found nothing significant, but she testified that the  
15 administration of a catheter would not result in scarring or tearing. She did find marks on  
16 A.S.(2001) during the physical evaluation that caused her concern. She found scars on the  
17 buttocks, "in between the thighs right almost to the genital area, and [on] the lower back area."  
18 The marks near the buttocks were larger and "had some shape to them" and were in an area  
19 that people do not typically injure. Her left buttock had a linear scar. This was consistent with  
20 being hit with a paint stick. The mark was caused by blunt force trauma. The physical  
21 examination of A.S.(2003) revealed marks on her buttocks, legs, and back which were  
22 consistent with blunt force trauma. "[T]he top of her right shoulder" had "substantial scar  
23 tissue.". Cetl was "concerned that it may have been from a burn, maybe a scald burn." Her  
24 lower back had a linear scar. A.S.(2004) had scars on her buttocks and back which were  
25 consistent with blunt force trauma. She had "a light lightening from the skin from ... scarring  
26 on her right ear." A scar ran down her shoulder that looked like a "hot liquid type of a burn."  
27 The doctor noted concerns about the growth of the girls.

28 //

1 *McClain*

2 In March 2014, the girls were returned to live with McClain. They had changed  
3 tremendously, and McClain believed that she “didn’t get the same kids back.” A.S.(2001) was  
4 withdrawn and depressed. A.S.(2003) was argumentative, “real angry,” and quick to blame  
5 others. A.S.(2004) was confused about everything. By the time the girls were returned, they  
6 were not having toileting accidents and properly digesting food. They had marks and scars on  
7 their bodies which “were not there previously.”

8 *Medical*

9 Cetl testified that the genital area included the labia majora, the vagina, and the urethral  
10 opening. The labia majora generally completely enclose the inner parts of female genitalia,  
11 and they must be spread to get to the inner areas. 19AA4623. Dr. Elizabeth Mileti testified that  
12 she would never recommend that a parent administer a catheter to check their child’s bladder,  
13 and that she did not recommend catheterization of A.S.(2003). Dr. Alphonsa Stephen testified  
14 that she never recommended that Petitioner administer a catheter to A.S.(2004).

15 **ANALYSIS**

16 **I. PETITIONER’S ARGUMENTS IN GROUND TWO ARE BARRED**

17 **A. The Law of The Case Bars Petitioner’s Sufficiency of The Evidence Claims**

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

1           Petitioner argues that the State failed to prove beyond a reasonable doubt that she was  
2 guilty. Petitioner already argued this claim on direct appeal. The Nevada Supreme Court  
3 concluded that there was sufficient evidence:

4           Solander challenges her convictions of sexual assault of a minor  
5 under 14 years of age and batter with intent to commit sexual  
6 assault.

7           ...

8           Considering all the evidence, we conclude a rational trier of fact  
9 could find the elements of sexual assault of a minor under 14 years  
10 of age and batter with intent to commit sexual assault beyond a  
11 reasonable doubt for each of Solander's convictions.

12           ...

13           Solander next challenges her convictions for child abuse with  
14 substantial bodily harm by means of spanking the victims with a  
15 paint stick

16           ...

17           Based on this evidence a rational trier of fact could have found  
18 each essential element of the crime beyond a reasonable doubt.

19           Lastly, Solander contends that the State failed to prove count 11  
20 beyond a reasonable doubt because A.S. (2001) recanted the  
21 allegation.

22           ...

23           Thus, a rational trier of fact could have found each essential  
24 element of the crime beyond a reasonable doubt

25           Solander v. State, No. 76228, 2020 WL 3603882, at \*2-6 (July 1, 2020). The law of the case  
26 bars Petitioner from relitigating these claims. Thus, this Court finds that the law of the case  
27 bars Ground two (2) of the Petition.

28           **B. Petitioner's Claim Regarding the CPS Records Should Have Been Raised on  
Direct Appeal**

          At the end of Ground two, Petitioner asserts that the court incorrectly ruled that certain  
evidence was not relevant. This claim should have been raised on direct appeal. NRS  
34.724(2)(a); NRS 34.810(1)(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059  
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).  
Her failure to do so bars this claim.

1       Petitioner's failure to prove good cause or prejudice requires the dismissal of this claim.  
2 To overcome this bar, a petitioner must demonstrate: (1) good cause for delay in filing her  
3 petition or for bringing new claims or repeating claims in a successive petition; and (2) undue  
4 or actual prejudice. NRS 34.726(1); NRS 34.800(1); NRS 34.810(3). To establish prejudice  
5 "a petitioner must show that errors in the proceedings underlying the judgment worked to the  
6 petitioner's actual and substantial disadvantage." State v. Huebler, 128 Nev. 192, 197, 275  
7 P.3d 91, 94-95 (2012), cert. denied, 568 U.S. 1147, 133 S.Ct. 988 (2013).

8       "To establish good cause, petitioners must show that an impediment external to the  
9 defense prevented their compliance with the applicable procedural rule. A qualifying  
10 impediment might be shown where the factual or legal basis for a claim was not reasonably  
11 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003),  
12 rehearing denied, 120 Nev. 307, 91 P.3d 35 cert. denied, 543 U.S. 947, 125 S.Ct. 358 (2004);  
13 see also, Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to  
14 demonstrate good cause, a petitioner must show that an impediment external to the defense  
15 prevented him or her from complying with the state procedural default rules"); Pellegrini, 117  
16 Nev. at 887, 34 P.3d at 537 (neither ineffective assistance of counsel, nor a physician's  
17 declaration in support of a habeas petition were sufficient "good cause" to overcome a  
18 procedural default, whereas a finding by Supreme Court that a defendant was suffering from  
19 Multiple Personality Disorder was). An external impediment could be "that the factual or legal  
20 basis for a claim was not reasonably available to counsel, or that 'some interference by  
21 officials' made compliance impracticable." Id. (quoting Murray v. Carrier, 477 U.S. 478, 488,  
22 106 S.Ct. 2639, 2645 (1986)); see also, Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing  
23 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

24       The Nevada Supreme Court has held that, "appellants cannot attempt to manufacture  
25 good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a  
26 "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at  
27 506; (quoting, Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), superseded by  
28 statute as recognized by, Huebler, 128 Nev. at 197, 275 P.3d at 95, footnote 2). Excuses such

1 as the lack of assistance of counsel when preparing a petition as well as the failure of trial  
2 counsel to forward a copy of the file to a petitioner have been found not to constitute good  
3 cause. Phelps v. Dir. Nev. Dep't of Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988),  
4 superseded by statute as recognized by, Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145  
5 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

6 Petitioner makes no good cause argument for why this Court should consider her claim.  
7 Failure to address good cause amounts to an admission that she is unable to do so. DCR 13(2);  
8 EDCR 3.20(b); Polk v. State, 126 Nev. 180, 186, 233 P.3d 357, 360-61 (2010). Nowhere in  
9 her petition does Petitioner address the issue of good cause. She fails to allege any  
10 impediments that necessitated bringing a claim outside of appeal. Thus, Petitioner's silence  
11 should be read as an admission that no good cause exists.

12 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner  
13 had all the facts and law necessary to allege this claim. Thus, Petitioner should have been able  
14 to allege it on appeal. Based on Petitioner's failure to properly allege good cause, this Court  
15 denies this claim on the grounds that Petitioner cannot demonstrate good cause.

16 Petitioner's failure to address good cause necessitates the dismissal of this claim.  
17 However, Petitioner also fails to properly allege prejudice. "A court *must* dismiss a habeas  
18 petition if it presents claims that either were or could have been presented in an earlier  
19 proceeding, unless the court finds both cause for failing to present the claims earlier or for  
20 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-  
21 47, 29 P.3d 498, 523 (2001). To demonstrate prejudice to overcome the procedural bars, a  
22 defendant must show "not merely that the errors of [the proceeding] created possibility of  
23 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state  
24 proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952, 960,  
25 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584,  
26 1596 (1982)). To find good cause there must be a "substantial reason; one that affords a legal  
27 excuse." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v.  
28 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

1       Petitioner cannot face prejudice, as she alleges nothing more than a bare and naked  
2 claim. “Bare” and “naked” allegations are not sufficient to warrant post-conviction relief, nor  
3 are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d  
4 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by the record  
5 as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228,  
6 1230 (2002). Petitioner fails to cite law or explain the impropriety of the Court’s prior ruling.  
7 Thus, even if Petitioner could assert good cause, she is unable to establish prejudice. As such,  
8 this claim is denied.

9       **II.    PETITIONER DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**  
10       **COUNSEL**

11       The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal  
12 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
13 defense.” The United States Supreme Court has long recognized that “the right to counsel is  
14 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,  
15 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
16 (1993).

17       To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
18 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test  
19 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
20 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
21 representation fell below an objective standard of reasonableness, and second, that but for  
22 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
23 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison  
24 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).  
25 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the  
26 inquiry in the same order or even to address both components of the inquiry if the defendant  
27 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.  
28



1 The court begins with the presumption of effectiveness and then must determine  
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). "Effective counsel  
4 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of  
5 competence demanded of attorneys in criminal cases.'" Jackson v. Warden, 91 Nev. 430, 432,  
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. Ennis  
8 v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the "immediate  
9 and ultimate responsibility of deciding if and when to object, which witnesses, if any, to call,  
10 and what defenses to develop." Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

11 Based on the above law, the role of a court in considering allegations of ineffective  
12 assistance of counsel is "not to pass upon the merits of the action not taken but to determine  
13 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
14 reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
15 (1978). This analysis does not mean that the court should "second guess reasoned choices  
16 between trial tactics nor does it mean that defense counsel, to protect himself against  
17 allegations of inadequacy, must make every conceivable motion no matter how remote the  
18 possibilities are of success." Id. To be effective, the constitution "does not require that counsel  
19 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
20 cannot create one and may disserve the interests of his client by attempting a useless charade."  
21 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

22 "There are countless ways to provide effective assistance in any given case. Even the  
23 best criminal defense attorneys would not defend a particular client in the same way."  
24 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after  
25 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,  
26 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
27 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's  
28 challenged conduct on the facts of the particular case, viewed as of the time of counsel's

1 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

2 Even if a defendant can demonstrate that his counsel's representation fell below an  
3 objective standard of reasonableness, she must still demonstrate prejudice and show a  
4 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
5 different. McNelton v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
6 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
7 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,  
8 694, 104 S. Ct. at 2064-65, 2068).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of  
11 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
12 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must  
13 be supported with specific factual allegations, which if true, would entitle the petitioner to  
14 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”  
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS  
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims  
17 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your  
18 petition to be dismissed.” (emphasis added).

19 There is a strong presumption that appellate counsel's performance was reasonable and  
20 fell within “the wide range of reasonable professional assistance.” See United States v.  
21 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at  
22 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set  
23 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order  
24 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would  
25 have had a reasonable probability of success on appeal. Id.

26 The professional diligence and competence required on appeal involves “winnowing  
27 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
28 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In

1 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .  
2 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
3 For judges to second-guess reasonable professional judgments and impose on appointed  
4 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
5 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

6 **A. Counsel Did Not Provide Ineffective Assistance of Counsel By Meeting with**  
7 **Petitioner the Friday Before Trial**

8 Petitioner claims that counsel met with her for less than two hours the Friday prior to  
9 trial. Petitioner is not entitled to a particular relationship with counsel. Morris v. Slappy, 461  
10 U.S. 1, 13-14, 103 S. Ct 1610, 1616 (1983). There is no requirement that Counsel meet with  
11 Petitioner for an unspecified period the day prior to trial. Additionally, Petitioner fails to show  
12 how she was prejudiced by this. Petitioner must show how “further communication would  
13 have had a reasonable probability of altering the outcome at trial.” Marquez v. State, 455 P.3d,  
14 840, 2020 WL 405466 (Nev. 2020) (unpublished). Petitioner simply states that this caused him  
15 to not be prepared. Petitioner never specifies in detail a different outcome at trial. Therefore,  
16 this Court denies this claim, as Petitioner’s argument is insufficient to demonstrate ineffective  
17 assistance of counsel. Browning v. State, 120 Nev. 347, 357, 91 P.3d 39, 47 (2004); Hargrove,  
18 100 Nev. at 502, 686 P.2d at 225.

19 **B. Petitioner only Asserts Bare and Naked Claims Regarding Counsel’s Failure**  
20 **to Call Witnesses**

21 Petitioner claims Counsel failed to call certain witnesses. However, Counsel maintains  
22 the “immediate and ultimate responsibility of deciding if and when to object, which witnesses,  
23 if any, to call, and what defenses to develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167.  
24 Additionally, Petitioner does not state what witnesses Counsel should have called or what  
25 these unknown witnesses would testify to. Without such information, Petitioner cannot  
26 demonstrate how these witnesses would affect the outcome of trial. Thus, this Court denies  
27 Petitioner’s argument, as it is “bare” and “naked.” Browning v. State, 120 Nev. at 357, 91 P.3d  
28 at 47 (2004); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1                   **C. Petitioner Fails to Demonstrate How Appellate Counsel Provided Ineffective**  
2                   **Assistance**

3                   Petitioner claims that Appellate Counsel failed to inform her about the status of her  
4                   appeal from January 14, 2021, until April 22, 2021. Even if this is true, Petitioner fails to  
5                   explain how she is prejudiced by this. By this point, Petitioner's Appellate Counsel already  
6                   submitted Appellant's Opening Brief and appeared at oral argument. Additionally, Petitioner  
7                   still had the ability to file a timely habeas petition during this time. Since Petitioner cannot  
8                   show prejudice, this Court denies this claim.

9                   **III. THERE WAS NO CUMULATIVE ERROR**

10                  The Nevada Supreme Court has not endorsed application of its direct appeal cumulative  
11                  error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,  
12                  259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.  
13                  Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.  
14                  Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of errors,  
15                  none of which would by itself meet the prejudice test.")

16                  Nevertheless, even where available a cumulative error finding in the context of a  
17                  Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,  
18                  e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,  
19                  logic dictates that there can be no cumulative error where the defendant fails to demonstrate  
20                  any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.  
21                  2007) ("where individual allegations of error are not of constitutional stature or are not errors,  
22                  there is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));  
23                  Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d  
24                  543, 552-53 (5th Cir. 2005)). Because Petitioner has not demonstrated that any claim warrants  
25                  relief under Strickland, there is nothing to cumulate. Therefore, Petitioner's cumulative error  
26                  claim should be denied.

27                  Notwithstanding a cumulative error analysis not being applicable, Petitioner has failed  
28                  to demonstrate cumulative error sufficient to warrant reversal. In addressing a claim of  
cumulative error, the relevant factors are: 1) whether the issue of guilt is close; 2) the quantity

1 and character of the error; and 3) the gravity of the crime charged. Mulder v. State, 116 Nev.  
2 1, 17, 992 P.2d 845, 854-5 (2000). While Petitioner was charged with serious offenses, she is  
3 unable to demonstrate any error. This is because her claims are either barred or meritless.  
4 Without any error, there can be no aggregation of errors. Additionally, the issue of guilt is not  
5 close given that the Nevada Supreme Court already held there was sufficient proof to justify a  
6 guilty verdict. Thus, this Court denies Petitioner's claim as she cannot show cumulative error.

#### 7 **IV. PETITIONER IS NOT ENTITLED TO COUNSEL**

8 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-  
9 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566  
10 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada  
11 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right  
12 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to  
13 counsel provision as being coextensive with the Sixth Amendment to the United States  
14 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)  
15 (entitling appointed counsel when petitioner is under a sentence of death), one does not have  
16 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at  
17 164, 912 P.2d at 258.

18 The Nevada Legislature has, however, given courts the discretion to appoint post-  
19 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and  
20 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

21 A petition may allege that the Defendant is unable to pay the costs  
22 of the proceedings or employ counsel. If the court is satisfied that  
23 the allegation of indigency is true and the petition *is not dismissed*  
*summarily*, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider whether:

- 24 (a) The issues are difficult;  
25 (b) The Defendant is unable to comprehend the proceedings; or  
(c) Counsel is necessary to proceed with discovery.

26 Under NRS 34.750, it is clear that the court has discretion in determining whether to  
27 appoint counsel. More recently, the Nevada Supreme Court examined whether a district court  
28 appropriately denied a defendant's request for appointment of counsel based upon the factors

1 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In Renteria-  
2 Novoa, the petitioner had been serving a prison term of eighty-five (85) years to life. Id. at 75,  
3 391 P.3d at 760. After his judgment of conviction was affirmed on direct appeal, the defendant  
4 filed a pro se postconviction petition for writ of habeas corpus and requested counsel be  
5 appointed. Id. The district court ultimately denied the petitioner's petition and his appointment  
6 of counsel request. Id. In reviewing the district court's decision, the Nevada Supreme Court  
7 examined the statutory factors listed under NRS 34.750 and concluded that the district court's  
8 decision should be reversed and remanded. Id. The Court explained that the petitioner was  
9 indigent, his petition could not be summarily dismissed, and he had in fact satisfied the  
10 statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor, the Court concluded that  
11 because petitioner had represented he had issues with understanding the English language  
12 which was corroborated by his use of an interpreter at his trial, that was enough to indicate that  
13 the petitioner could not comprehend the proceedings. Id. Moreover, the petitioner had  
14 demonstrated that the consequences he faced—a minimum eighty-five (85) year sentence—  
15 were severe and his petition may have been the only vehicle for which he could raise his  
16 claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of counsel claims  
17 may have required additional discovery and investigation beyond the record. Id.

18 Here, Petitioner has not demonstrated that counsel should be appointed. The issues here  
19 are not difficult as part of Petitioner's claims were already ruled upon by the Nevada Supreme  
20 Court. The remaining claims are meritless. Additionally, Petitioner's claims do not require any  
21 additional discovery. Therefore, this Court denies Petitioner's request for counsel.

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**ORDER**

Based on the foregoing IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and is, hereby denied.

DATED this \_\_\_\_\_ day of November, 2021.


Dated this 10th day of November, 2021



DISTRICT JUDGE

E19 9E9 9341 123B  
Joe Hardy  
District Court Judge

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



BY

#10539 for

JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528

14F04585C/JV/ee/mlb/SVU

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Janet Solander, Plaintiff(s)

CASE NO: A-21-840177-W

7 vs.

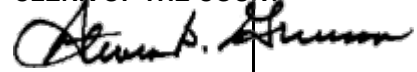
DEPT. NO. Department 15

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's  
12 electronic filing system, but there were no registered users on the case. The filer has been  
13 notified to serve all parties by traditional means.  
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1 NEFF

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 JANET SOLANDER,

6 Petitioner,

7 vs.

8 STATE OF NEVADA,

9 Respondent,

Case No: A-21-840177-W

Dept No: XV

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

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

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed  
to you. This notice was mailed on November 15, 2021.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

17 Amanda Hampton, Deputy Clerk

18  
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 15 day of November 2021, I served a copy of this Notice of Entry on the  
21 following:

22 ☒ By e-mail:

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

24 ☒ The United States mail addressed as follows:

25 Janet Solander # 1200370  
26 4370 Smiley Rd.  
Las Vegas, NV 89115

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

*Heather B. Lavin*

CLERK OF THE COURT

**FCL**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

JANET SOLANDER,  
#5870905

Petitioner,

-vs-

CASE NO: A-21-840177-W

DEPT NO: XV

THE STATE OF NEVADA,

Respondent.

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

THIS CAUSE having been decided by the Honorable Joe Hardy, District Judge, pursuant to a Minute Order issued on the 28th day of October 2021, the State present via Blue Jeans, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On July 28, 2014 the State filed an Information that charged Janet Solander (hereinafter  
4 "Petitioner") with CHILD ABUSE, NEGLECT OR ENDANGERMENT WITH  
5 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.508(1) - NOC 55222),  
6 CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS 200.508(1)  
7 - NOC 55226), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF  
8 AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), ASSAULT WITH USE OF  
9 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201) and BATTERY  
10 WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400.4 -  
11 NOC 50157).

12 Petitioner sought pre-trial habeas relief on November 5, 2014. She alleged a failure to  
13 establish probable cause and that sexual assault was a specific-intent crime requiring sexual  
14 motivation. The State filed a Return on December 17, 2014. On June 17, 2015, the District  
15 Court granted relief in part.

16 Both Petitioner and the State appealed, and, on April 13, 2016, the Nevada Supreme  
17 Court reversed. While agreeing that "if the Solanders undertook the catheterization for a bona  
18 fide medical purpose, they may avoid criminal liability," the Court held that jurors should  
19 determine whether Solander had such a purpose. The Court explicitly rejected the Petitioner's  
20 argument that sexual assault "includes an element of sexual motivation or gratification."

21 On January 4, 2018, the State filed their Notice of Expert Witnesses. Petitioner sought  
22 to strike on January 28, 2018. The State opposed on February 2, 2018.

23 The State filed a prior-bad-acts motion seeking to admit evidence of Petitioner's abuse  
24 of foster children. Petitioner opposed on January 18, 2018.

25 On January 22, 2018, Petitioner's co-defendant filed a motion to suppress victim  
26 interviews. Petitioner joined. The State responded on February 1, 2018.

27 On January 31, 2018, the District Court began a two-day hearing on the prior-bad-acts  
28 motion.

1 A twenty-day jury trial began on February 5, 2018. On February 6, 2018, the State filed  
2 an Amended Information. The jury found Petitioner guilty of each count.

3 Petitioner was sentenced on June 5, 2018. Her sentence included eleven counts of thirty-  
4 five years to life for the sexual-assault counts. The other sentences ran consecutive to each  
5 other. The Judgment of Conviction was filed on June 22, 2018.

6 A Notice of Appeal was filed on June 21, 2018. On October 27, 2020, the Supreme  
7 Court of Nevada affirmed the Judgment of Conviction. Remittitur issued October 26, 2020.

8 On August 26, 2021, Petitioner filed the instant Petition. On August 30, 2021, the Court  
9 ordered the State to respond.

### 10 **FACTUAL BACKGROUND**

11 This case involves the systemic abuse of three young girls over a period of several  
12 years. The oldest, A.S.(2001), was born on October 21, 2001. The middle sister, A.S.(2003),  
13 was born on January 23, 2003. The youngest, A.S.(2004), was born on July 25, 2004.

14 The sisters were removed from their biological families. After a short time with another  
15 family, they were placed with Debbie McClain. They lived with McClain for a year and a half.  
16 A.S.(2001) and A.S.(2003) were potty trained and did not have accidents during their time  
17 with McClain. McClain fed the sisters regular food, but A.S.(2004) was a picky eater. During  
18 their time with McClain, the girls did not have “any scars either to the flanks of their body,  
19 their buttocks, [or] their upper thighs.”

20 The girls were fostered to the Solanders. The Solanders ultimately adopted them. They  
21 lived in two different houses during their time with the Solanders. The first home, when they  
22 were foster children, was on “Jubilee.” The second was on “Wakashan.”

23 In the Jubilee house, Petitioner implemented rules about using the bathroom. They had  
24 to ask before using the toilet, and Petitioner would set a timer on either her phone or a physical  
25 timer for “however much time she felt like” the girls needed to “hold it.” They could not use  
26 the toilet until the timer was up.

27 The girls were fed regular food at Jubilee for a short period of time. Eventually,  
28 Petitioner changed their diet, alleging that A.S.(2001) had Crohn’s disease. During the time

1 that the sisters were foster children, Petitioner did not physically punish them. This changed  
2 after adoption. Petitioner would make them sleep on boards or towels with a cold fan blowing  
3 on them in only their underwear. The other foster children had their own beds. Danielle Hinton  
4 remembered her mother threatening the sisters with "the fan" if they acted up, even in the  
5 wintertime.

6 After the adoption, Petitioner's toileting rules remained rigid. The girls still had to ask,  
7 and only after they had asked, Petitioner would start the timer. Petitioner would get upset with  
8 the girls for not asking earlier. They found it confusing that they had to first ask, and they  
9 sometimes got in trouble when they had to go too much when the timer finally rang. At times,  
10 they would have to wait so long either after Petitioner started the timer or during the middle  
11 of the night that they would wet themselves. Petitioner counted the squares of toilet paper the  
12 girls could use. Because they were so limited, their feces would sometimes leave marks on  
13 their underwear. The Solanders would check the sisters' underwear for these marks. These  
14 rules were corroborated by Jan Finnegan and Hinton. Petitioner would make them sit on  
15 buckets and the youngest sit on a tiny toilet all day with their underwear pulled slightly down  
16 rather than letting them use the toilet as needed. Hinton saw the girls use their buckets as  
17 toilets.

18 Even during the night, the girls had to ask before they could go to the bathroom.  
19 Eventually, Petitioner revoked nocturnal toileting. A camera faced the upstairs bathroom.  
20 Having been forbidden from using the toilet at night, the girls would soil themselves. Dwight  
21 Petitioner enforced this rule by placing gates and alarms on a bathroom door. He was often  
22 out of town for work, meaning that Petitioner was the main instigator of punishments.

23 The girls developed a fear of toileting. This led to multiple accidents daily. When the  
24 girls were left in the care of others, the toileting problems would cease.

25 Petitioner kicked the girls up and down the stairs. When they were showering, she  
26 would pour ice on them. Hinton saw her mother get the ice and heard the girls scream.

27 If they had an accident, the Solanders would beat them with paint sticks until they would  
28 bleed and scar. Hinton witnessed these beatings. I.S.(2008), one of the foster children, testified

1 that she saw this "every day" and that Dwight make her and her sister "be the audience" and  
2 laugh at the sisters as they were being beaten. Petitioner would force the girls to put their soiled  
3 underwear into their mouths. Once, after A.S.(2004) had an accident, Petitioner took the paint  
4 stick and inserted it into A.S.(2004)'s vagina. On another occasion, Petitioner burned  
5 A.S.(2004) while she was washing her hands by turning the temperature up and holding her  
6 hands under the water and then splashing her with hot water, badly burning her skin. State's  
7 Exhibit 192. Petitioner forced A.S.(2004)'s head into a toilet filled with excrement and, on  
8 more than one occasion, made her stand naked in a garbage bag as she soiled herself. When  
9 A.S.(2001) had an accident, Petitioner made her lick her own urine off the floor. Another time,  
10 Petitioner slammed A.S.(2001)'s head into a counter repeatedly after she had an accident.  
11 A.S.(2006), a foster child, witnessed Dwight spanking the sisters with their pants down with a  
12 "ruler that was pretty thick." I.S.(2008) remembered seeing each of the sisters being hit with  
13 paint sticks seeing scabs and burns on their bodies from Petitioner burning them with water.

14 The Solanders humiliated the girls by making them crawl on the floor in cloth diapers  
15 saying that they were babies while the foster children and Danielle Hinton watched. As they  
16 crawled doing their "I'm-a-baby chant," the Solanders would make them wear their soiled  
17 underwear on their heads or carry them in their mouths.

18 Dwight Solander purchased six catheters on December 8, 2012, and three days later, on  
19 December 11, 2012, Petitioner sent Dwight a picture of a catheter filled with urine and a  
20 subject line which read "300 cc's." State's Exhibits 204,243. Petitioner also regularly punished  
21 the sisters by inserting catheters into their urethras without their consent and by threatening to  
22 cut their genitalia with a razor blade. She did this to A.S.(2003) once, to A.S.(2001) more than  
23 once, and to A.S.(2004) between 7-8 times. Petitioner had to hold A.S.(2004) down as she  
24 inserted the catheter because she would fight. Hinton heard the Solanders threaten the girls  
25 with catheters and saw a catheter in her house. She told police that the Solanders used catheters  
26 on the girls, but that she couldn't personally watch.

27 Petitioner limited the sisters' meals as punishment for accidents. When they did eat,  
28 their meals were timed and often blended. A.S.(2001) would "usually have baby formula and

1 milk” which was blended occasionally with bread. Other times, she would have oatmeal mixed  
2 with fish, or quinoa. Dinner was collard greens, beans, horseradish, and fish along with  
3 “several other kinds of meat” which Petitioner would blend together.

4 To eat, A.S.(2001) would have to stand by the sink. Jan Finnegan testified that the girls  
5 were required to eat breakfast standing up while the other children in the home could eat at the  
6 table. As A.S.(2001) ate, Petitioner would tell A.S.(2001) that she had ground up a mouse or  
7 a rat into her meal. She would also tell A.S.(2001) that the fish had been alive. For liquids,  
8 A.S.(2001) would get water with medicine or after bathroom breaks. Meals were served  
9 without a drink. She was so thirsty that she would drink water from the shower or brushing  
10 her teeth. Petitioner saw A.S.(2001) drink shower water and slapped her, cutting and bruising  
11 her lip. Finnegan testified that the girls “weren’t allowed” to be given water at dinner, in the  
12 middle of the day, or “[h]ardly ever.”

13 At first, A.S.(2001) would get three meals each day. Then two, breakfast and dinner,  
14 then one, then, at times, none. The Solanders forbade Finnegan from feeding the sisters lunch  
15 even though the other children in the home could eat. The meals caused A.S.(2001) to use the  
16 toilet more. Hungry, A.S.(2001) would sneak into the pantry to get food. Petitioner beat her  
17 with a stick.

18 Petitioner also severely limited A.S.(2003)’s food intake by timing her meals and letting  
19 her go hungry. In response, she would take food in violation of Petitioner’s rules. At times,  
20 she would, while sitting on her bucket, watch Petitioner eat a hearty breakfast and hungrily  
21 wait to be fed. A.S.(2004) was also left to go hungry.

#### 22 *Foster Sibling Corroboration*

23 I.S.(2008) and A.S.(2006) lived with the Solanders as foster children. They  
24 corroborated the sisters’ testimony about Solander’s strict toileting rules. I.S.(2008) testified  
25 that Petitioner would watch the sisters as they used the restroom.

26 Petitioner forbade A.S.(2006) from eating dairy even though she did not have any  
27 stomach problems. After she was removed from the Petitioner house, she did not have any  
28 toileting problems or lactose intolerance.

1 A.S.(2006) further corroborated the sisters' testimony regarding blended food and the  
2 eating conditions. Further, she remembered Petitioner talking about using catheters on one of  
3 the sisters and orange Home Depot buckets in the kitchen.

4 *Jan Finnegan*

5 In January 2013, Finnegan responded to Petitioner's nanny ad. Finnegan observed two  
6 cameras—one in the kitchen and one on the second floor "looking down towards the entrance  
7 of the bathroom."

8 Finnegan corroborated the sisters' testimony about Petitioner's strict bathroom rules  
9 and that the rules did not apply to the other children. When she tried to do laundry, Dwight  
10 told her to refrain so that he could see the sister's underwear. Despite the rules, none of the  
11 children had any toileting accidents during the entire three weeks Finnegan was there. Further,  
12 the sisters did not have any severe tantrums or disturbing emotional behavior.

13 Finnegan corroborated the sisters' testimony that Petitioner would strictly control their  
14 diets while allowing the foster children to eat normal food. The Solanders forbade Finnegan  
15 from giving the girls food outside of breakfast and dinner, they were required to eat breakfast  
16 standing, their food had to be blended, and they could not be given water. To justify this,  
17 Dwight cited vague "intestinal problems." Finnegan would sneak them solid, unblended food  
18 every day without any resulting intestinal problems.

19 Finnegan testified that the sisters were not disobedient and that they were well behaved.

20 *Investigation*

21 On February 26, 2014, Shining Star Therapeutic Services sent a report to CPS about  
22 two of Petitioner's foster children. On February 27, 2014, Yvette Gonzales, a senior family  
23 services specialist with CPS, visited the school of one of the children. She decided to remove  
24 the children.

25 Gonzales reported to the Solander house and asked to see the remaining foster children.  
26 She asked Petitioner where her adoptive daughters were, and Petitioner said they were in  
27 Nebraska but refused to provide contact information. Gonzales said she was "going to file a  
28 missing person's report" if Petitioner did not provide her with more information. Petitioner



1 asked Gonzales to leave, and CPS took the foster children.

2 On February 28, 2014, Gonzales contacted the Las Vegas Metropolitan Police  
3 Department Missing Persons Detail. A detective contacted Dwight, who said the girls were in  
4 Marvelous Grace Academy in Pace, Florida. The director of the academy, Steven Blankenship,  
5 confirmed that the girls were there.

6 Gonzales decided to have someone speak with the sisters. Jackie Henry from the  
7 Department of Family Services contacted the girls. Henry put them in protective custody, and  
8 the Solanders' rights over them were removed. CPS opened an investigation. The police  
9 department was asked to determine if the Solanders had committed any crimes.

10 Gonzales interviewed Dwight and informed him that a protective custody hearing  
11 would be held. On March 5, 2014, the hearing was conducted. The girls were returned to  
12 Nevada and expressed fear over returning to the Solander's home.

13 On March 13, 2014, the girls were examined by Dr. Sandra Cetl. She conducted a sexual  
14 assault assessment of each child. She found nothing significant, but she testified that the  
15 administration of a catheter would not result in scarring or tearing. She did find marks on  
16 A.S.(2001) during the physical evaluation that caused her concern. She found scars on the  
17 buttocks, "in between the thighs right almost to the genital area, and [on] the lower back area."  
18 The marks near the buttocks were larger and "had some shape to them" and were in an area  
19 that people do not typically injure. Her left buttock had a linear scar. This was consistent with  
20 being hit with a paint stick. The mark was caused by blunt force trauma. The physical  
21 examination of A.S.(2003) revealed marks on her buttocks, legs, and back which were  
22 consistent with blunt force trauma. "[T]he top of her right shoulder" had "substantial scar  
23 tissue.". Cetl was "concerned that it may have been from a burn, maybe a scald burn." Her  
24 lower back had a linear scar. A.S.(2004) had scars on her buttocks and back which were  
25 consistent with blunt force trauma. She had "a light lightening from the skin from ... scarring  
26 on her right ear." A scar ran down her shoulder that looked like a "hot liquid type of a burn."  
27 The doctor noted concerns about the growth of the girls.

28 //

1 *McClain*

2 In March 2014, the girls were returned to live with McClain. They had changed  
3 tremendously, and McClain believed that she “didn’t get the same kids back.” A.S.(2001) was  
4 withdrawn and depressed. A.S.(2003) was argumentative, “real angry,” and quick to blame  
5 others. A.S.(2004) was confused about everything. By the time the girls were returned, they  
6 were not having toileting accidents and properly digesting food. They had marks and scars on  
7 their bodies which “were not there previously.”

8 *Medical*

9 Cetl testified that the genital area included the labia majora, the vagina, and the urethral  
10 opening. The labia majora generally completely enclose the inner parts of female genitalia,  
11 and they must be spread to get to the inner areas. 19AA4623. Dr. Elizabeth Miletic testified that  
12 she would never recommend that a parent administer a catheter to check their child’s bladder,  
13 and that she did not recommend catheterization of A.S.(2003). Dr. Alphonsa Stephen testified  
14 that she never recommended that Petitioner administer a catheter to A.S.(2004).

15 **ANALYSIS**

16 **I. PETITIONER’S ARGUMENTS IN GROUND TWO ARE BARRED**

17 **A. The Law of The Case Bars Petitioner’s Sufficiency of The Evidence Claims**

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

1           Petitioner argues that the State failed to prove beyond a reasonable doubt that she was  
2 guilty. Petitioner already argued this claim on direct appeal. The Nevada Supreme Court  
3 concluded that there was sufficient evidence:

4           Solander challenges her convictions of sexual assault of a minor  
5 under 14 years of age and batter with intent to commit sexual  
6 assault.

7           ...

8           Considering all the evidence, we conclude a rational trier of fact  
9 could find the elements of sexual assault of a minor under 14 years  
10 of age and batter with intent to commit sexual assault beyond a  
11 reasonable doubt for each of Solander's convictions.

12           ...

13           Solander next challenges her convictions for child abuse with  
14 substantial bodily harm by means of spanking the victims with a  
15 paint stick

16           ...

17           Based on this evidence a rational trier of fact could have found  
18 each essential element of the crime beyond a reasonable doubt.

19           Lastly, Solander contends that the State failed to prove count 11  
20 beyond a reasonable doubt because A.S. (2001) recanted the  
21 allegation.

22           ...

23           Thus, a rational trier of fact could have found each essential  
24 element of the crime beyond a reasonable doubt

25           Solander v. State, No. 76228, 2020 WL 3603882, at \*2-6 (July 1, 2020). The law of the case  
26 bars Petitioner from relitigating these claims. Thus, this Court finds that the law of the case  
27 bars Ground two (2) of the Petition.

28           **B. Petitioner's Claim Regarding the CPS Records Should Have Been Raised on  
Direct Appeal**

          At the end of Ground two, Petitioner asserts that the court incorrectly ruled that certain  
evidence was not relevant. This claim should have been raised on direct appeal. NRS  
34.724(2)(a); NRS 34.810(1)(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059  
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).  
Her failure to do so bars this claim.

1       Petitioner's failure to prove good cause or prejudice requires the dismissal of this claim.  
2 To overcome this bar, a petitioner must demonstrate: (1) good cause for delay in filing her  
3 petition or for bringing new claims or repeating claims in a successive petition; and (2) undue  
4 or actual prejudice. NRS 34.726(1); NRS 34.800(1); NRS 34.810(3). To establish prejudice  
5 "a petitioner must show that errors in the proceedings underlying the judgment worked to the  
6 petitioner's actual and substantial disadvantage." State v. Huebler, 128 Nev. 192, 197, 275  
7 P.3d 91, 94-95 (2012), cert. denied, 568 U.S. 1147, 133 S.Ct. 988 (2013).

8       "To establish good cause, petitioners must show that an impediment external to the  
9 defense prevented their compliance with the applicable procedural rule. A qualifying  
10 impediment might be shown where the factual or legal basis for a claim was not reasonably  
11 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003),  
12 rehearing denied, 120 Nev. 307, 91 P.3d 35 cert. denied, 543 U.S. 947, 125 S.Ct. 358 (2004);  
13 see also, Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to  
14 demonstrate good cause, a petitioner must show that an impediment external to the defense  
15 prevented him or her from complying with the state procedural default rules"); Pellegrini, 117  
16 Nev. at 887, 34 P.3d at 537 (neither ineffective assistance of counsel, nor a physician's  
17 declaration in support of a habeas petition were sufficient "good cause" to overcome a  
18 procedural default, whereas a finding by Supreme Court that a defendant was suffering from  
19 Multiple Personality Disorder was). An external impediment could be "that the factual or legal  
20 basis for a claim was not reasonably available to counsel, or that 'some interference by  
21 officials' made compliance impracticable." Id. (quoting Murray v. Carrier, 477 U.S. 478, 488,  
22 106 S.Ct. 2639, 2645 (1986)); see also, Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing  
23 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

24       The Nevada Supreme Court has held that, "appellants cannot attempt to manufacture  
25 good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a  
26 "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at  
27 506; (quoting, Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), superseded by  
28 statute as recognized by, Huebler, 128 Nev. at 197, 275 P.3d at 95, footnote 2). Excuses such

1 as the lack of assistance of counsel when preparing a petition as well as the failure of trial  
2 counsel to forward a copy of the file to a petitioner have been found not to constitute good  
3 cause. Phelps v. Dir. Nev. Dep't of Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988),  
4 superseded by statute as recognized by, Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145  
5 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

6 Petitioner makes no good cause argument for why this Court should consider her claim.  
7 Failure to address good cause amounts to an admission that she is unable to do so. DCR 13(2);  
8 EDCR 3.20(b); Polk v. State, 126 Nev. 180, 186, 233 P.3d 357, 360-61 (2010). Nowhere in  
9 her petition does Petitioner address the issue of good cause. She fails to allege any  
10 impediments that necessitated bringing a claim outside of appeal. Thus, Petitioner's silence  
11 should be read as an admission that no good cause exists.

12 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner  
13 had all the facts and law necessary to allege this claim. Thus, Petitioner should have been able  
14 to allege it on appeal. Based on Petitioner's failure to properly allege good cause, this Court  
15 denies this claim on the grounds that Petitioner cannot demonstrate good cause.

16 Petitioner's failure to address good cause necessitates the dismissal of this claim.  
17 However, Petitioner also fails to properly allege prejudice. "A court *must* dismiss a habeas  
18 petition if it presents claims that either were or could have been presented in an earlier  
19 proceeding, unless the court finds both cause for failing to present the claims earlier or for  
20 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-  
21 47, 29 P.3d 498, 523 (2001). To demonstrate prejudice to overcome the procedural bars, a  
22 defendant must show "not merely that the errors of [the proceeding] created possibility of  
23 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state  
24 proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952, 960,  
25 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584,  
26 1596 (1982)). To find good cause there must be a "substantial reason; one that affords a legal  
27 excuse." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v.  
28 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

1       Petitioner cannot face prejudice, as she alleges nothing more than a bare and naked  
2 claim. “Bare” and “naked” allegations are not sufficient to warrant post-conviction relief, nor  
3 are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d  
4 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by the record  
5 as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228,  
6 1230 (2002). Petitioner fails to cite law or explain the impropriety of the Court’s prior ruling.  
7 Thus, even if Petitioner could assert good cause, she is unable to establish prejudice. As such,  
8 this claim is denied.

9       **II.    PETITIONER DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**  
10       **COUNSEL**

11       The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal  
12 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
13 defense.” The United States Supreme Court has long recognized that “the right to counsel is  
14 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,  
15 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
16 (1993).

17       To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
18 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test  
19 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
20 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
21 representation fell below an objective standard of reasonableness, and second, that but for  
22 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
23 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison  
24 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).  
25 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the  
26 inquiry in the same order or even to address both components of the inquiry if the defendant  
27 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.  
28

1 The court begins with the presumption of effectiveness and then must determine  
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). "Effective counsel  
4 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of  
5 competence demanded of attorneys in criminal cases.'" Jackson v. Warden, 91 Nev. 430, 432,  
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. Ennis  
8 v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the "immediate  
9 and ultimate responsibility of deciding if and when to object, which witnesses, if any, to call,  
10 and what defenses to develop." Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

11 Based on the above law, the role of a court in considering allegations of ineffective  
12 assistance of counsel is "not to pass upon the merits of the action not taken but to determine  
13 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
14 reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
15 (1978). This analysis does not mean that the court should "second guess reasoned choices  
16 between trial tactics nor does it mean that defense counsel, to protect himself against  
17 allegations of inadequacy, must make every conceivable motion no matter how remote the  
18 possibilities are of success." Id. To be effective, the constitution "does not require that counsel  
19 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
20 cannot create one and may disserve the interests of his client by attempting a useless charade."  
21 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

22 "There are countless ways to provide effective assistance in any given case. Even the  
23 best criminal defense attorneys would not defend a particular client in the same way."  
24 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after  
25 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,  
26 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
27 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's  
28 challenged conduct on the facts of the particular case, viewed as of the time of counsel's

1 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

2 Even if a defendant can demonstrate that his counsel's representation fell below an  
3 objective standard of reasonableness, she must still demonstrate prejudice and show a  
4 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
5 different. McNelton v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
6 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
7 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,  
8 694, 104 S. Ct. at 2064-65, 2068).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of  
11 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
12 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must  
13 be supported with specific factual allegations, which if true, would entitle the petitioner to  
14 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”  
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS  
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims  
17 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your  
18 petition to be dismissed.” (emphasis added).

19 There is a strong presumption that appellate counsel's performance was reasonable and  
20 fell within “the wide range of reasonable professional assistance.” See United States v.  
21 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at  
22 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set  
23 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order  
24 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would  
25 have had a reasonable probability of success on appeal. Id.

26 The professional diligence and competence required on appeal involves “winnowing  
27 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a  
28 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In



1 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .  
2 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.  
3 For judges to second-guess reasonable professional judgments and impose on appointed  
4 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very  
5 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

6 **A. Counsel Did Not Provide Ineffective Assistance of Counsel By Meeting with**  
7 **Petitioner the Friday Before Trial**

8 Petitioner claims that counsel met with her for less than two hours the Friday prior to  
9 trial. Petitioner is not entitled to a particular relationship with counsel. Morris v. Slappy, 461  
10 U.S. 1, 13-14, 103 S. Ct 1610, 1616 (1983). There is no requirement that Counsel meet with  
11 Petitioner for an unspecified period the day prior to trial. Additionally, Petitioner fails to show  
12 how she was prejudiced by this. Petitioner must show how “further communication would  
13 have had a reasonable probability of altering the outcome at trial.” Marquez v. State, 455 P.3d,  
14 840, 2020 WL 405466 (Nev. 2020) (unpublished). Petitioner simply states that this caused him  
15 to not be prepared. Petitioner never specifies in detail a different outcome at trial. Therefore,  
16 this Court denies this claim, as Petitioner’s argument is insufficient to demonstrate ineffective  
17 assistance of counsel. Browning v. State, 120 Nev. 347, 357, 91 P.3d 39, 47 (2004); Hargrove,  
18 100 Nev. at 502, 686 P.2d at 225.

19 **B. Petitioner only Asserts Bare and Naked Claims Regarding Counsel’s Failure**  
20 **to Call Witnesses**

21 Petitioner claims Counsel failed to call certain witnesses. However, Counsel maintains  
22 the “immediate and ultimate responsibility of deciding if and when to object, which witnesses,  
23 if any, to call, and what defenses to develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167.  
24 Additionally, Petitioner does not state what witnesses Counsel should have called or what  
25 these unknown witnesses would testify to. Without such information, Petitioner cannot  
26 demonstrate how these witnesses would affect the outcome of trial. Thus, this Court denies  
27 Petitioner’s argument, as it is “bare” and “naked.” Browning v. State, 120 Nev. at 357, 91 P.3d  
28 at 47 (2004); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1                   **C. Petitioner Fails to Demonstrate How Appellate Counsel Provided Ineffective**  
2                   **Assistance**

3                   Petitioner claims that Appellate Counsel failed to inform her about the status of her  
4                   appeal from January 14, 2021, until April 22, 2021. Even if this is true, Petitioner fails to  
5                   explain how she is prejudiced by this. By this point, Petitioner's Appellate Counsel already  
6                   submitted Appellant's Opening Brief and appeared at oral argument. Additionally, Petitioner  
7                   still had the ability to file a timely habeas petition during this time. Since Petitioner cannot  
8                   show prejudice, this Court denies this claim.

9                   **III. THERE WAS NO CUMULATIVE ERROR**

10                  The Nevada Supreme Court has not endorsed application of its direct appeal cumulative  
11                  error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,  
12                  259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.  
13                  Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.  
14                  Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of errors,  
15                  none of which would by itself meet the prejudice test.")

16                  Nevertheless, even where available a cumulative error finding in the context of a  
17                  Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,  
18                  e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,  
19                  logic dictates that there can be no cumulative error where the defendant fails to demonstrate  
20                  any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.  
21                  2007) ("where individual allegations of error are not of constitutional stature or are not errors,  
22                  there is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));  
23                  Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d  
24                  543, 552-53 (5th Cir. 2005)). Because Petitioner has not demonstrated that any claim warrants  
25                  relief under Strickland, there is nothing to cumulate. Therefore, Petitioner's cumulative error  
26                  claim should be denied.

27                  Notwithstanding a cumulative error analysis not being applicable, Petitioner has failed  
28                  to demonstrate cumulative error sufficient to warrant reversal. In addressing a claim of  
cumulative error, the relevant factors are: 1) whether the issue of guilt is close; 2) the quantity

1 and character of the error; and 3) the gravity of the crime charged. Mulder v. State, 116 Nev.  
2 1, 17, 992 P.2d 845, 854-5 (2000). While Petitioner was charged with serious offenses, she is  
3 unable to demonstrate any error. This is because her claims are either barred or meritless.  
4 Without any error, there can be no aggregation of errors. Additionally, the issue of guilt is not  
5 close given that the Nevada Supreme Court already held there was sufficient proof to justify a  
6 guilty verdict. Thus, this Court denies Petitioner's claim as she cannot show cumulative error.

#### 7 **IV. PETITIONER IS NOT ENTITLED TO COUNSEL**

8 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-  
9 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566  
10 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada  
11 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right  
12 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to  
13 counsel provision as being coextensive with the Sixth Amendment to the United States  
14 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)  
15 (entitling appointed counsel when petitioner is under a sentence of death), one does not have  
16 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at  
17 164, 912 P.2d at 258.

18 The Nevada Legislature has, however, given courts the discretion to appoint post-  
19 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and  
20 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

21 A petition may allege that the Defendant is unable to pay the costs  
22 of the proceedings or employ counsel. If the court is satisfied that  
23 the allegation of indigency is true and the petition *is not dismissed*  
*summarily*, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider whether:

- 24 (a) The issues are difficult;  
25 (b) The Defendant is unable to comprehend the proceedings; or  
(c) Counsel is necessary to proceed with discovery.

26 Under NRS 34.750, it is clear that the court has discretion in determining whether to  
27 appoint counsel. More recently, the Nevada Supreme Court examined whether a district court  
28 appropriately denied a defendant's request for appointment of counsel based upon the factors

1 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In Renteria-  
2 Novoa, the petitioner had been serving a prison term of eighty-five (85) years to life. Id. at 75,  
3 391 P.3d at 760. After his judgment of conviction was affirmed on direct appeal, the defendant  
4 filed a pro se postconviction petition for writ of habeas corpus and requested counsel be  
5 appointed. Id. The district court ultimately denied the petitioner's petition and his appointment  
6 of counsel request. Id. In reviewing the district court's decision, the Nevada Supreme Court  
7 examined the statutory factors listed under NRS 34.750 and concluded that the district court's  
8 decision should be reversed and remanded. Id. The Court explained that the petitioner was  
9 indigent, his petition could not be summarily dismissed, and he had in fact satisfied the  
10 statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor, the Court concluded that  
11 because petitioner had represented he had issues with understanding the English language  
12 which was corroborated by his use of an interpreter at his trial, that was enough to indicate that  
13 the petitioner could not comprehend the proceedings. Id. Moreover, the petitioner had  
14 demonstrated that the consequences he faced—a minimum eighty-five (85) year sentence—  
15 were severe and his petition may have been the only vehicle for which he could raise his  
16 claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of counsel claims  
17 may have required additional discovery and investigation beyond the record. Id.

18 Here, Petitioner has not demonstrated that counsel should be appointed. The issues here  
19 are not difficult as part of Petitioner's claims were already ruled upon by the Nevada Supreme  
20 Court. The remaining claims are meritless. Additionally, Petitioner's claims do not require any  
21 additional discovery. Therefore, this Court denies Petitioner's request for counsel.

22 //

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**ORDER**

Based on the foregoing IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and is, hereby denied.

DATED this \_\_\_\_\_ day of November, 2021.

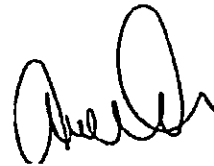
Dated this 10th day of November, 2021



DISTRICT JUDGE

E19 9E9 9341 123B  
Joe Hardy  
District Court Judge

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



BY

#10539 for

JONATHAN E. VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528

14F04585C/JV/ee/mlb/SVU

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Janet Solander, Plaintiff(s)

CASE NO: A-21-840177-W

7 vs.

DEPT. NO. Department 15

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's  
12 electronic filing system, but there were no registered users on the case. The filer has been  
13 notified to serve all parties by traditional means.  
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## Writ of Habeas Corpus

## COURT MINUTES

October 28, 2021

A-21-840177-W Janet Solander, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

October 28, 2021 08:30 AM All Pending Motions

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

## PARTIES PRESENT:

Jennifer M. Clemons Attorney for Defendant

State of Nevada Defendant

## JOURNAL ENTRIES

PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR APPOINTMENT  
OF ATTORNEY...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL

The State present via Blue Jeans.

The Court noted that it reviewed the Petition for Writ of Habeas Corpus, the Motion for Appointment of Attorney, the Motion to Withdraw Counsel, and the State's Response. Without hearing any oral argument, COURT ORDERED the Petition for Writ of Habeas Corpus, as well as the Plaintiff's Motion for Appointment of Attorney, were hereby DENIED. COURT FURTHER ORDERED the Motion to Withdraw Counsel, was hereby GRANTED. The COURT FOUND the following: (1) the Plaintiff did not have a right to counsel on a post-conviction Petition; (2) the Court may use its discretion to appoint counsel under appropriate circumstances; however, those circumstances were not present in the instant case; and (3) the substance of the Petition for Writ of Habeas Corpus was substantively denied for all of the reasons set forth in the State's Response.

The State to prepare the written Order, incorporating the reasons set forth in its Response as the Court's Findings, and submit it directly to chambers.

COURT ORDERED a status check regarding the submittal of the written Order, was hereby SET on this department's chambers calendar.

11/18/21 (CHAMBERS) STATUS CHECK: SUBMITTAL OF ORDER

CLERK'S NOTE: A copy of this minute order was provided to Plaintiff via U.S. mail: Janet Solander #1200370 [Florence McClure Womens Correctional Center 4370 Smiley Road Las Vegas, NV 89115]. (KD 10/28/21)

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES

JANET SOLANDER,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-21-840177-W

Dept No: XV

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 1 day of December 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk