

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

DEFENDANT, In Propria Persona

ALSO & FILED
2021 DEC -2 PM 3:09

AUBREY ROWLAND
Clerk
Electronically Filed
Dec 09 2021 11:35 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE First JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Carson City

Kevin Ray Holmes

Plaintiff,

Vs.

Warden, W.S.C.C.

Defendant.

CASE No. 21 EW 00027 1B

DEPT. No. 1

Dkt. No. _____

NOTICE OF APPEAL

Please take notice that Kevin Ray Holmes Defendant, and in his proper person, hereby appeals to the Nevada Court of Appeals, the judgment(s) in the above-entitled action(s) entered in this Honorable Court on or about the 18th day of November, 2021. This notice of Appeal is timely filed pursuant to NRAP 4(b).

DATED this 29th day of November, 2021.

RESPECTFULLY SUBMITTED,

[Signature]
DEFENDANT, In Propria Persona

Warm Springs Correctional Center
P.O. Box 7007
Carson City, Nevada 89702
Appellant, In Proper Person

IN THE First JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Carson City

Kevin Ray Holmes

Appellant,

Vs.

Warden W.S.C.C.

Respondent.

CASE No. 21 EW 00027 1B

DEPT. No. 1

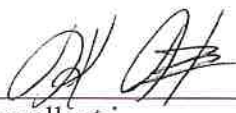
Dkt. No. _____

DESIGNATION OF RECORD ON APPEAL

Please take notice that Kevin Ray Holmes, Appellant, and in his proper person, hereby files this Designation of Record on Appeal in the above entitled action, pursuant to NRAP 10(b); and respectfully herein asks this Honorable Court to designate the record on appeal, to be certified by the Clerk of the District Court and transcribed to the Clerk of the Nevada Court of Appeals: All motions, pleadings, judgments and transcripts.

DATED this 29th day of November, 2021.

RESPECTFULLY SUBMITTED,


Appellant in pro se

CERTIFICATE OF MAILING

I, Kenn Ray Holmes, certify under the penalties of perjury, that service was made of this NOTICE OF APPEAL & DESIGNATION OF RECORD ON APPEAL, pursuant to NRCp 5(b), by placing same in the United States mail, postage prepaid and addressed as follows:

~~District Attorney~~

(Copy to)

Attorney General's office
100 No Carson Street
Carson City, NV 89301

DATED this 20th day of November, 2021

BY:

Appellant, In Proper Person

REC'D & FILED

2021 DEC -3 PM 4:44

APPELLATE
CLERK
[Signature]
COUNTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

KEVIN RAY HOLMES,

Petitioner(s),

vs.

WARDEN W.S.C.C.,

Respondent(s).

Case No.: 21 EW 00027 1B

Dept. No.: I

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
- KEVIN RAY HOLMES
2. Identify the judge issuing the decision, judgment, or order appealed from:
- HONORABLE JAMES T. RUSSELL
3. Identify each appellant and the name and address of counsel for each appellant:
- KEVIN RAY HOLMES #63616
P.O. BOX 7007
CARSON CITY, NV 89701-4717
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
- WARDEN W.S.C.C.
AARON FORD, ATTORNEY GENERAL (CNSL FOR RESPONDENT)
100 NORTH CARSON STREET
CARSON CITY, NV 89701-4717
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that

attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

- NOT APPLICABLE

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

- APPELLANT IN PROPER PERSON IN THE DISTRICT COURT

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

- APPELLANT IN PROPER PERSON ON APPEAL

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

- NOT APPLICABLE

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

- DECISION AND ORDER TRANSFERRING PETITION FOR WRIT OF HABEAS CORPUS FILED OCT. 26, 2021 (PETITION FOR WRIT OF HABEAS CORPUS (COMPUTATION OF TIME) INITIALLY FILED ON AUG. 10, 2021 IN CLARK COUNTY)

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

- ORDER DENYING PETITION FILED NOV. 17, 2021

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

- NOT APPLICABLE

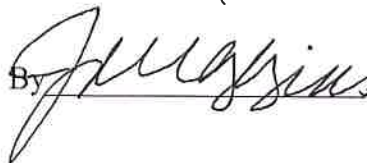
12. Indicate whether this appeal involves child custody or visitation:

- NOT APPLICABLE

1 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
2 - NOT APPLICABLE.

3 Dated this 3rd day of December, 2021.

4 AUBREY ROWLATT, Carson City Clerk
5 885 E. Musser St., #3031
6 Carson City, NV 89701

7 By  Deputy
8
9

Judge: WILSON JR, JAMES E Case No. 21 EW 00027 1B
Ticket No.
CTN:

HOLMES, KEVIN RAY By:
WARDEN W.S.C.C. DRSPND -vs- By:

Dob: Sex:
Lic: Sid:

Plate#:
Make:
Year: Accident:
Type:
Venue:
Location:

HOLMES, KEVIN RAY PLNTPET Bond: Set:
Type: Posted:

Charges:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	12/03/21	CASE APPEAL STATEMENT	1BJHIGGINS	0.00	0.00
2	12/02/21	NOTICE OF APPEAL FILED	1BPETERSON	24.00	0.00
3	11/18/21	NOTICE OF ENTRY OF DECISION OR ORDER	1BJULIEH	0.00	0.00
4	11/17/21	CASE CLOSED	1BJHIGGINS	0.00	0.00
5	11/17/21	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJULIEH	0.00	0.00
6	11/17/21	ORDER DENYING PETITION	1BJULIEH	0.00	0.00
7	11/12/21	REQUEST FOR SUBMISSION	1BCCOOPER	0.00	0.00
8	11/12/21	WARDEN KYLE OLSEN'S ANSWER	1BCCOOPER	0.00	0.00
9	10/26/21	DECISION AND ORDER TRANSFERRING PETITION FOR WRIT OF HABEAS CORPUS	1BPETERSON	0.00	0.00
10	10/21/21	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BSBARAJAS	0.00	0.00
11	10/21/21	ORDER TOE PROCEED INFORMA PAUPERIS ORDER DENYING REQUEST FOR ATTORNEY ORDER FOR THE OFFICE OF THE NEVADA ATTORNEY GENERAL TO RESPOND	1BSBARAJAS	0.00	0.00
Total:				24.00	0.00
Totals By: COST				24.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

1 Holmes previously discharged his underlying sentence for Count II, and paroled from his
2 underlying sentence for Count I. He is currently serving his final two concurrent sentences for the
3 weapon enhancements on both Counts I and II. Holmes' projected parole eligibility date on his final
4 concurrent sentences is June 1, 2022. On August 10, 2021, Holmes filed a petition for writ of habeas
5 corpus raising a single claim: that the Nevada Department of Corrections (NDOC) failed to properly
6 apply the pre-sentence credit awarded in the judgment of conviction of 4 years, 160 days to his
7 sentences. Petition at 4. Subsequently, this Court ordered Respondent Kyle Olsen (Warden Olsen) to
8 answer or otherwise respond to the Petition. Thereafter, Warden Olsen filed an answer to Holmes's
9 petition.

10 CONCLUSIONS OF LAW

11 NRS 34.720(2) authorizes the filing of a post-conviction petition for a writ of habeas corpus that
12 challenges the computation of time a petitioner has served pursuant to a judgment of conviction. In
13 support of Holmes' allegations that the NDOC failed to properly apply his pre-sentence credits, Holmes
14 filed Points and Authorities in Support of Petition for Writ of Habeas Corpus, which included two
15 Credit History Reports as Exhibits A and B, both dated May 2, 2019.¹

16 Holmes did not attach the last Credit History Report attached to that answer for Sentence 4,
17 Count II, which shows that he began receiving credits on "06/23/1995," exactly 4 years and 160 days
18 prior to his sentence date of "11/30/1999." Accordingly, Warden Olsen provided a copy of that Credit
19 History Report, as well as the one-page "Offender Legal Order" report, demonstrating that Holmes'
20 "Sentence Date" for Count II, attempt murder, is "11/30/1999" while it's "Retro Date" was
21 "06/24/1995"—exactly 4 years, 160 days.


22 Ultimately, this evidence submitted by Respondent Warden Olsen is sufficient to support this
23 Court's determination that the NDOC has properly applied the pre-sentence credit awarded in the
24 judgment of conviction of 4 years, 160 days to Holmes' first sentence served, Count II, attempt murder.
25 Thus, Holmes' Petition for Writ of Habeas Corpus shall be denied based on proper application of credit
26 for time served.

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¹ Notably, both documents were previously attached as exhibits to an Answer filed on 05/14/2019 in Case No. 19 EW 00015
1B.

1 NOW THEREFORE, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING,
2 **IT IS HEREBY ORDERED** that Holmes' Petition for Writ of Habeas Corpus is **DENIED**.
3 **IT IS SO ORDERED.**

4
5 **DATED** this 17th day of November, 2021


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9 JAMES T. RUSSELL
DISTRICT JUDGE

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2
3 **CERTIFICATE OF MAILING**

4 Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court,
5 and that on this ~~18th~~ day of November, 2021, I deposited for mailing, postage paid, at Carson
6 City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

7 Sheryl Serreze
8 Office of the Attorney General
9 100 N. Carson Street
10 Carson City, NV 89701-4717

11 Kevin Ray Holmes, Inmate No. 63616
12 Warm Springs Correctional Center
13 PO BOX 7007
14 Carson City, NV 89702

15 
16 Jackson J. Tamm, Esq.
17 Law Clerk, Dept. I
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REC'D & FILED ✓

2021 NOV 18 AM 9:42

AUBREY ROWLATT
CLERK
BY M. Rowlatt
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

KEVIN RAY HOLMES,
Petitioner,

vs

WARDEN W.S.C.C.,
Respondent.

Case No.: 21 EW 00027 1B

Dept. No.: I

**NOTICE OF ENTRY OF DECISION OR
ORDER**

PLEASE TAKE NOTICE that on November 17, 2021, the Court entered a decision or order in this matter, a true and correct copy of which is attached to this Notice.

You may appeal to the Supreme Court from the decision or order of this Court. If you wish to appeal, you must file a Notice of Appeal with the Clerk of this Court within 33 days after the date this Notice is mailed to you. This Notice was mailed on November 18, 2021.

DATED this 18th day of November, 2021.

AUBREY ROWLATT, Clerk

By M. Rowlatt, Deputy

cc: Kevin Ray Holmes #63616
Warden, W.S.C.C
Aaron Ford, Attorney General
Steven Wolfson, District Attorney

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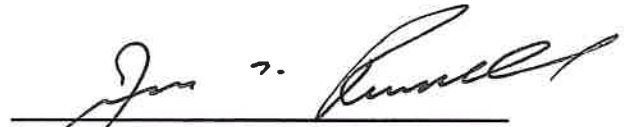
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9 JAMES T. RUSSELL
DISTRICT JUDGE

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13 PO BOX 7007
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15 
16 Jackson J. Tann, Esq.
17 Law Clerk, Dept. I
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