



1 NOAS  
2 Gary Lewis # 47615  
3 Lovelock Correctional Center  
4 1200 Prison Road  
5 Lovelock, Nevada 89419

6 Petitioner In Pro Se

Electronically Filed  
May 21 2021 09:50 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 \* \* \* \* \*

10 Gary Lewis, )  
11 )  
12 ) Petitioner, )  
13 )  
14 ) -vs- )  
15 )  
16 ) THE STATE OF NEVADA, )  
17 )  
18 ) Respondent. )  
19 )

Case No. A-21-827377-W  
Dept. No. X11

20 NOTICE OF APPEAL

21 NOTICE IS GIVEN that Petitioner, Gary Lewis,  
22 in pro se, hereby appeals to the Nevada Supreme Court the  
23 Findings of Fact, Conclusions of Law and Order Denying /  
24 Dismissing Petition for Writ of Habeas Corpus, as filed/entered  
25 on or about the 8th day of April, 2021, in the above-  
26 entitled Court.

27 Dated this 7th day of May, 2021.

28 Gary D. Lewis  
Gary Lewis # 47615  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

Petitioner In Pro Se

RECEIVED  
MAY 17 2021  
CLERK OF THE COURT

LCCLL FORM 24.064

1  
2 CERTIFICATE OF SERVICE

3 I do certify that I mailed a true and correct copy of the  
4 foregoing NOTICE OF APPEAL to the below address(es) on this  
5 7th day of May, 2021, by placing same in the  
6 U.S. Mail via prison law library staff:

7 Steven B. Wolfson  
8 Clark County District Attorney  
9 200 Lewis Ave.  
10 Las Vegas NV 89155

11 Aaron Ford  
12 Nevada Attorney General  
13 555 E. Washington, Ste. 3900  
14 Las Vegas NV 89101

15  
16  
17 Gary J. Lewis  
18 Gary Lewis # 47615  
19 Lovelock Correctional Center  
1200 Prison Road  
Lovelock, Nevada 89419

20 Petitioner In Pro Se

21  
22 AFFIRMATION PURSUANT TO NRS 239B.030

23 The undersigned does hereby affirm that the preceding  
24 NOTICE OF APPEAL filed in District Court Case No. A-21-827377-W  
25 does not contain the social security number of any person.

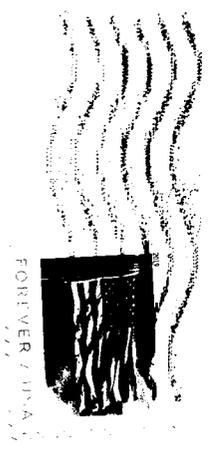
26 Dated this 7th day of May, 2021.

27 Gary J. Lewis  
28 Gary Lewis

Petitioner In Pro Se

Gary Lewis # 47615  
LoveLocke Corrections Center  
1200 Prison Rd.  
LoveLocke NV 89419

RECEIVED  
MAY 10 2005



Clerk of the Court  
Eighth Judicial District Court  
300 Lewis Ave  
Las Vegas NV 89155

**INMATE LEGAL**  
**MAIL CONFIDENTIAL**

8910186900

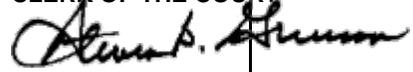


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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

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GARY LYNN LEWIS,

Case No: A-21-827377-W

10

Plaintiff(s),

11

Dept No: XII

vs.

12

13

STATE OF NEVADA,

14

Defendant(s),

15

16

**CASE APPEAL STATEMENT**

17

1. Appellant(s): Gary Lewis

18

2. Judge: Michelle Leavitt

19

3. Appellant(s): Gary Lewis

20

Counsel:

21

Gary Lewis #47615  
1200 Prison Rd.  
Lovelock, NV 89419

22

23

24

4. Respondent (s): State of Nevada

25

Counsel:

26

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

27

28

- 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\*\*: N/A  
8 \*\*Expires 1 year from date filed  
9 Appellant Filed Application to Proceed in Forma Pauperis: No  
10 Date Application(s) filed: N/A  
11 9. Date Commenced in District Court: January 5, 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 18 day of May 2021.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk  
22 200 Lewis Ave  
23 PO Box 551601  
24 Las Vegas, Nevada 89155-1601  
25 (702) 671-0512

26 cc: Gary Lewis  
27  
28

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**  
**CASE NO. A-21-827377-W**

Gary Lewis, Plaintiff(s)  
 vs.  
 State of Nevada, Defendant(s)

§  
 §  
 §  
 §  
 §

Location: **Department 12**  
 Judicial Officer: **Leavitt, Michelle**  
 Filed on: **01/05/2021**  
 Cross-Reference Case Number: **A827377**

CASE INFORMATION

**Related Cases**

95C129824 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

**Statistical Closures**

04/08/2021 Other Manner of Disposition

Case Status: **04/08/2021 Closed**

DATE

CASE ASSIGNMENT

**Current Case Assignment**

Case Number	A-21-827377-W
Court	Department 12
Date Assigned	01/05/2021
Judicial Officer	Leavitt, Michelle

PARTY INFORMATION

**Plaintiff**

**Lewis, Gary**

**Pro Se**

**Defendant**

**State of Nevada**

DATE

EVENTS & ORDERS OF THE COURT

INDEX

**EVENTS**

01/05/2021

 Inmate Filed - Petition for Writ of Habeas Corpus  
 Party: Plaintiff Lewis, Gary  
*Post Conviction*

03/08/2021

 Request  
 Filed by: Plaintiff Lewis, Gary  
*Status Check*

04/08/2021

 Order to Statistically Close Case  
*Civil Order to Statistically Close Case*

04/08/2021

 Findings of Fact, Conclusions of Law and Order  
*Findings of Fact, Conclusions of Law, and Order Denying Petition for Determination of Factual Innocence*

04/22/2021

 Status Check  
 Filed By: Plaintiff Lewis, Gary  
*Status Check*

05/17/2021

 Notice of Appeal  
*Notice of Appeal*

**CASE SUMMARY**

**CASE NO. A-21-827377-W**

05/18/2021



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Plaintiff Lewis, Gary

*Notice of Entry of Findings of Fact, Conclusions of Law and Order*

05/18/2021



Case Appeal Statement

Filed By: Plaintiff Lewis, Gary

*Case Appeal Statement*

04/06/2021

**HEARINGS**

***CANCELED*** Petition for Writ of Habeas Corpus (12:30 PM) (Judicial Officer: Leavitt, Michelle)

*Vacated - On In Error*

DISTRICT COURT CIVIL COVER SHEET

A-21-827377-W  
Dept. 12

County, Nevada

Case No.

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Gary Lewis</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">State of Nevada</p>
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**

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

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

January 5, 2021

Date

**PREPARED BY CLERK**

Signature of initiating party or representative

*See other side for family-related case filings.*



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7. On March 23, 2009, the Petitioner filed a "First Amendment Petition Writ of Habeas Corpus [sic]."

8. On May 1, 2009, the District Court ordered that the "First Amended Petition" that was filed on March 23, 2009 was an improper amendment or supplement as the original petition was orally denied by the District Court.

9. On May 11, 2009, the Petitioner filed a Notice of Appeal challenging the District Court's decision to deny his first Petition for Writ of Habeas Corpus (Post-Conviction).

10. On June 2, 2009, the District Court entered the Notice of Entry of Order Denying Petitioner's first Petition for Writ of Habeas Corpus (Post-Conviction).

11. On October 28, 2009, The Supreme Court of Nevada affirmed the District Court's decision to deny Petitioner's first Petition for Writ of Habeas Corpus (Post-Conviction). Remittitur issued November 24, 2009.

12. On September 23, 2010, the Petitioner filed his second Petition for Writ of Habeas Corpus (Post-Conviction).

13. On January 27, 2011, the District Court denied Petitioner's second Petition for Writ of Habeas Corpus (Post-Conviction). The Notice of Entry of Findings of Fact, Conclusions of Law, and Order were filed on March 17, 2011.

14. On March 14, 2011, the Petitioner filed a Notice of Appeal, challenging the District Court's decision to deny his second Petition for Writ of Habeas Corpus (Post-Conviction).

15. On September 15, 2011, The Supreme Court of Nevada affirmed the District Court's decision denying the second Petition for Writ of Habeas Corpus (Post-Conviction). Remittitur issued October 12, 2011.

16. On November 29, 2011, Petitioner filed a "Motion to Withdraw the *Alford* Plea for [sic] the Entire Proceeding was in Direct Violation of the Constitution." The State filed its Opposition on December 14, 2011.

17. On December 22, 2011, the District Court denied Petitioner's "Motion to Withdraw the *Alford* Plea for [sic] the Entire Proceeding was in Direct Violation of the Constitution."

18. On March 11, 2014, Petitioner filed a third Petition for Writ of Habeas Corpus (Post-Conviction).



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6. "Newly discovered evidence" means evidence that was not available to a petitioner at trial or during the resolution by the trial court of any motion to withdraw a guilty plea or motion for new trial and which is material to the determination of the issue of factual innocence[.]” NRS 34.930

7. Here, Petitioner failed to include a proper assertion of factual innocence under NRS 36.940(2). There is no assertion under oath, nor is the Petition supported by “affidavits or other credible documents.”

8. Petitioner failed to comply with the statutory requirements. Instead, only vague references are made to “exculpatory” and “Brady” evidence that the State withheld during trial. Such vague references without any supporting documentation do not qualify as “newly discovered evidence.” The instant Petition does not establish that Petitioner did not commit the charged crime and thus, the Petition must be denied.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Petition to Establish Factual Innocence shall be, and it is, hereby DENIED.

Dated this 8<sup>th</sup> day of April, 2021



MICHELLE LEAVITT  
DISTRICT COURT JUDGE  
DEPARTMENT XII  
EIGHTH JUDICIAL DISTRICT

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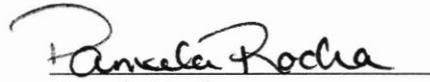
**CERTIFICATE OF MAILING**

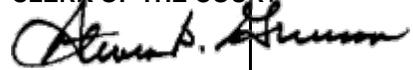
I hereby certify that on the 8<sup>th</sup> day of February, 2021, I placed a copy of the Findings of Fact, Conclusions of Law, and Order in the U.S. Mail, postage prepaid to:

Gary L. Lewis #47615  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

Steven B. Wolfson  
Clark County District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89155

Aaron Ford  
Nevada Attorney General  
555 E. Washington, Suite 3900  
Las Vegas, NV 89101-1068

  
Pamela Rocha  
Judicial Executive Assistant  
Department XII  
Eighth Judicial District Court



1 NEFF

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 GARY LEWIS,

5  
6 Petitioner,

Case No: A-21-827377-W

Dept No: XII

7 vs.

8 STATE OF NEVADA,

9 Respondent,

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

10  
11 **PLEASE TAKE NOTICE** that on April 8, 2021, the court entered a decision or order in this matter, a  
true and correct copy of which is attached to this notice.

12 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
13 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
14 mailed to you. This notice was mailed on May 18, 2021.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

17  
18  
19 CERTIFICATE OF E-SERVICE / MAILING

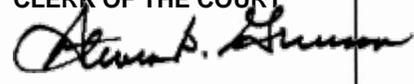
20 I hereby certify that on this 18 day of May 2021, I served a copy of this Notice of Entry on the following:

21  By e-mail:  
Clark County District Attorney's Office  
22 Attorney General's Office – Appellate Division-

23  The United States mail addressed as follows:  
24 Gary Lewis # 47615  
1200 Prison Rd.  
25 Lovelock, NV 89419

26  
27 /s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



1 FFCO

2  
3 EIGHTH JUDICIAL DISTRICT  
4 CLARK COUNTY, NEVADA

6 Gary Lewis,	)	Case No.: A-21-827377-W
7                   Petitioner,	)	
8                   vs.	)	DEPT. No.: XII
9 STATE OF NEVADA,	)	
10                   Respondent	)	

11  
12 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING**  
13 **PETITION FOR DETERMINATION OF FACTUAL INNOCENCE**

14 FINDINGS OF FACT

15 1. On August 15, 1995, the State of Nevada ("State") charged Gary L.  
16 Lewis ("Petitioner") by way of Information with SEXUAL ASSAULT WITH A  
MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366).

17 2. On June 12, 1996, the State filed an Amended Information  
18 charging Petitioner with SEXUAL ASSAULT (Felony - NRS 200.364, 200.366) and  
19 Petitioner, pursuant to *North Carolina v. Alford*, entered a guilty plea to the charge in  
the Amended Information.

20 3. On August 2, 1996, the District Court adjudged Petitioner guilty  
21 and sentenced Petitioner to the Nevada Department of Corrections for a term of LIFE  
22 WITH THE POSSIBILITY OF PAROLE, to be served CONCURRENTLY with  
C122079. Petitioner received ZERO credit for time served.

23 4. On August 14, 1996, the District Court entered the Judgment of  
24 Conviction.

25 5. On February 19, 2009, the Defendant filed a "First Amendment  
26 Petition Writ of Habeas Corpus [sic]" (hereinafter "first Petition for Writ of Habeas  
Corpus (Post-Conviction)").

27 6. On February 26, 2009, the District Court denied Petitioner's first  
28 Petition for Writ of Habeas Corpus (Post-Conviction).

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6. "Newly discovered evidence" means evidence that was not available to a petitioner at trial or during the resolution by the trial court of any motion to withdraw a guilty plea or motion for new trial and which is material to the determination of the issue of factual innocence[.]” NRS 34.930

7. Here, Petitioner failed to include a proper assertion of factual innocence under NRS 36.940(2). There is no assertion under oath, nor is the Petition supported by “affidavits or other credible documents.”

8. Petitioner failed to comply with the statutory requirements. Instead, only vague references are made to “exculpatory” and “Brady” evidence that the State withheld during trial. Such vague references without any supporting documentation do not qualify as “newly discovered evidence.” The instant Petition does not establish that Petitioner did not commit the charged crime and thus, the Petition must be denied.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Petition to Establish Factual Innocence shall be, and it is, hereby DENIED.

Dated this 8<sup>th</sup> day of April, 2021



MICHELLE LEAVITT  
DISTRICT COURT JUDGE  
DEPARTMENT XII  
EIGHTH JUDICIAL DISTRICT

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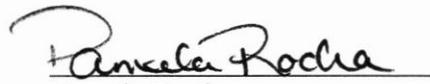
**CERTIFICATE OF MAILING**

I hereby certify that on the 8<sup>th</sup> day of February, 2021, I placed a copy of the Findings of Fact, Conclusions of Law, and Order in the U.S. Mail, postage prepaid to:

Gary L. Lewis #47615  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

Steven B. Wolfson  
Clark County District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89155

Aaron Ford  
Nevada Attorney General  
555 E. Washington, Suite 3900  
Las Vegas, NV 89101-1068

  
Pamela Rocha  
Judicial Executive Assistant  
Department XII  
Eighth Judicial District Court

# 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; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING PETITION FOR DETERMINATION OF FACTUAL INNOCENCE; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

GARY LYNN LEWIS,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

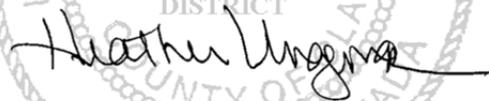
Case No: A-21-827377-W

Dept No: XII

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 18 day of May 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

