

FILED

MAY 04 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

Bennett G. Grimes

Appellant,

vs.

The State of Nevada

Respondent.

Supreme Court No. 84023

District Court No. C-11276163-1

APPELLANT'S INFORMAL BRIEF

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may submit your brief for filing in person or by mail.

To file your brief in person: Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

Carson City: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

Las Vegas Place your brief in the Clerk's Office Drop Box at the Las Vegas Courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

Informal Brief Form October 2017

MAY 04 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

22-14230

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
2-19-13	Judgement of Conviction (Jury Trial)
12-8-21	Order Denying Defendant's Motion to Modify and/or Correct
	Illegal Sentence

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 12-16-21

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
2:19-CV-00663-GMN-EJY	Federal Habeas Corpus (Post Conviction 2254)	U.S. Court House - Lloyd D. George
22-15530		9th Cir. C.O.A.

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

Arrest date: July 22, 2011

On October 15, 2012, a Jury found Grimes guilty of three counts:

CT1 - Attempt Murder with use of deadly weapon, CT2 - Burglary while in possession of a deadly weapon, CT3 - Battery with used of a deadly weapon

On October 23, 2012, the State filed a Notice of Intent to seek punishment as a Habitual Criminal. One

(1) year and three (3) months from initial criminal complaint. (California, 5-10-2000), FSB026485; (California, 6-18-2004), FSB044772. Prior felonies by way of plea negotiation, a constitutionally affirm guilty

plea. Priors not allowed to adjudge Habitual Status.

1. Appellant's sentence(s) violate "Due Process" and Equal Protection of Law as the "Applicable Standard of Law" was arbitrarily and contrarily misapplied in violation of the 5th and 14th Amendment of the Federal Constitution; Art. 1, 6 and Art 1, 8 of the Nevada Constitution an the Supremacy Clause of the Federal Constitution (Art. 6, Cl(s), 1, 2 and 3; U.S. Constitution; (see Art. 15, 2, Nev Const):

2. Appellant's sentencing was constitutionally unsound and erroneous as to the improper application of Nevada Law referencing for "Habitual Violator" and "Sentencing Enhancements", due to the implementation of "Bootstrapping" of the charges in a duplicitious/multiplicious indictment with which "untimely notice" of same was rendered by Prosecution, as the issue was "one criminal incident/transaction" which also boarded on double jeopardy, as some of the charges were "redundant", "lesser-included", "in tandem"; as to "Enhancement(s)" the language in the statute for Enhancement(s) clearly states it is for an "additional penalty/punishment" which is "Forbidden" by the Federal Constitution's 5th Amendment, and Art 1, 6 (Nev. Const.):

3. Appellant's sentences contains variances due to the foregoing, making it "Vague" to where the "Rule of Lenity" should have been applied, as one cannot ascertain which sentence(s) should or should not have been applicable to appellant's circumstances.

4. Appellant was arbitrarily denied his right to "Allocution", the right to be "canvassed" so the court could ascertain as to whether he fully understood the elements and penalties for the crimes with which he was charged, which unconstitutionally contributed to his being deprived of his constitutionally Guaranteed right to a "Protected Liberty Interest".

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

On February 12, 2013, the District Court sentenced Grimes on all three counts. In the disposition of:

CT1 - 8 to 20 years for attempt murder, plus a consecutive "additional" 5 to 15 years for a weapon enhancement

CT2 - Adjudged guilty under the small Habitual (Lesser); 8 to 20 years, concurrent to CT1

CT3 - Adjudged guilty under the small Habitual (Lesser); 8 to 20, consecutive to CT1 and CT2

The Habitual Criminal should be fixed at 5 years. Consecutive Enhancements, pursuant to the Habitual Criminal and NRS 193.165, are prohibited under Nevada Law.

There can be only one assignment of punishment when a defendant is charged as a Habitual Criminal. A constitutionally invalid conviction cannot be used to enhance a sentence under Habitual Offender Statute. The priors used to adjudge the Habitual Criminal would have been a misdemeanor or a gross misdemeanor under NRS 200.485 or NRS 200.481. Had it happened in this state and not a felony charge and thus defendant's California convictions could not be used to establish his status as a Habitual Criminal under this section.

The District Court arbitrarily committed:

(A) "Plain Error";

(B) "Manifest Constitutional Error"; and

(C) "Structural Error" - due to an "Abuse of Discretion"; "Judicial Oversight"; Failure to employ appropriate legal standards"; and "Failure to utilize appropriate legal principles and standards of Law by its failure to observe the authority(ies) of the state and federal constitutions and state law, making appellant's trial court proceedings "unfair" pursuant to the 6th Amendment (U.S.C.A., Amen. 6), nor make certain -- facts of law were adequately applied to facts of the case, nor consider whether a misapplication of same occurred. Appellant prays this Supreme Court employs its "Remedial Authority", the appropriate standards of law, both statutory and constitutional, and rectify/correct the errors of the District Court, amending appellant's sentence(s), doing away with the contended errors of same, protecting appellant's "Guaranteed Rights", or "Remand" to the District Court, with instructions to correct same.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

DATED this 2nd day of May, 2022.

Bennett G. Grimes
Signature of Appellant

BENNETT G. GRIMES
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

DATED this 2nd day of May, 2022.

Bennett G. Grimes
Signature of Appellant

BENNETT G. GRIMES
Print Name of Appellant

H.D.S.P/P.O. BOX 650
Address

INDIAN SPRINGS, NV. 89010.
City/State/Zip

Telephone