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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JORGE MENDOZA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 82740

**APPELLANT'S MOTION  
FOR A DETERMINATION  
ON WHETHER THE  
DISTRICT COURT  
SUFFICIENTLY  
ADDRESSED ALL ISSUES  
RAISED IN THE  
POSTCONVICTION  
HABEAS ACTION or in the  
alternative PETITION FOR  
WRIT OF MANDATE**

Appellant JORGE MENDOZA, by and through his counsel, respectfully requests that this Court find the District Court did not sufficiently rule on all the issues presented in the postconviction habeas action and remand this case back to the District Court with an Order that they revise the Findings of Fact, Conclusions of

1 Law & Order to address all issues and arguments raised. We request that this court  
2 use its powers either via the Rules of Appellate Procedure – Rule 27 Motions, or as  
3 a Writ of Mandate (NRS. 34.150 thru 34.320) for District Court A-19-804157-W if  
4 it decides it lacks jurisdiction to decide an appeal. See State v. Eighth Judicial  
5 District Court In and For the County of Clark, 116, Nev. 374, 997 P.2d 126 (2000).  
6  
7

### 8 9 **FACTUAL AND PROCEDURAL BACKGROUND**

10 Jorge Mendoza was convicted of First-Degree Murder and 6 Felony B crimes after  
11 a 19-day jury trial with 2 codefendants which resulted, for him, in an aggregate  
12 sentence of 23 years to Life imprisonment on December 12, 2016, the Honorable  
13 Judge Carolyn Ellsworth presiding throughout. 13AA3013-16. This is an appeal  
14 from the denial of a post-conviction petition for writ of habeas corpus in Jorge  
15 Mendoza vs. Warden, William Gittere, Civil Case No. A-19-804157-W. 17AA3741-  
16 3743. The written judgment of conviction was filed on December 2, 2016, for the  
17 companion criminal case C-15-303991-1. 13AA3013-6. The trial court denied post-  
18 conviction relief initially orally at the hearing on the briefings February 23, 2021.  
19 17AA3628-3682 at 3679-81. An off the record proposed Findings of Fact,  
20 Conclusions of Law and Order was circulated by the State. To which this counsel  
21 submitted via eFile Objections found in the Appendix at 17AA3683-3691. The court  
22 invited us to submit our own proposed Findings and we complied.  
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1 The Notice of Entry of Findings of Fact, Conclusions of Law and Order was filed  
2 and served by Odyssey eServe April 2, 2021. 17AA3692-3740. We feel it still  
3 neglected to address the issues we raised in our action and briefing. A timely notice  
4 of appeal was filed on April 5, 2021. 17AA3741-3743.  
5

6  
7 Recently in case 82123-COA, the Court of Appeals ordered an appeal for Charlot v  
8 State - dismissed stating that since the District Court failed to address an issue raised  
9 in the postconviction writ of habeas corpus petition – failure to provide competent  
10 comments on his behalf during sentencing: “The order was thus not a final order.  
11 See Sandstrom v. Second Judicial Dist. Court, 121 Nev. 657, 659, 119 P.3d 1250,  
12 1252 (2005) (“[A] final order [is] one that disposes of all issues and leaves nothing  
13 for future consideration.”) Accordingly we lack jurisdiction to consider this appeal,  
14 see NRS 177.015(3); NRS 34.575(1) and we Order this appeal DISMISSED.”  
15

16 Maybe you’ll disagree and find that all the issues were appropriately addressed, but  
17 we really don’t feel that they were and are concerned we will get to the end of all the  
18 briefing just to have the case dismissed and have to tangle with the District Court  
19 about whether they have to reopen the case and draft a new final order accordingly  
20 without an order by the appellate court to do so. In preparation of our August 6  
21 Opening Brief due date, we have submitted our appendices already and they can be  
22 found online. The relevant documents and citations are:  
23  
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1 Postconviction Writ of Habeas Corpus Petition is 15AA3388-15AA3395;  
2 15AA3396-15AA3422  
3

4 Supplemental Brief in Support of Postconviction Petition for Writ of Habeas  
5 Corpus 15AA3423-15AA3457  
6

7 State's Response to Petitioner's Supplemental Brief 16AA3458-16AA3539  
8

9 Petitioner's Reply to State's Response to Petitioner's Postconviction Petition  
10 for Writ of Habeas Corpus and Supplement 16AA3557-16AA3587  
11

12 Transcript of Evidentiary Hearing 17AA3628-17AA3682  
13

14 Objection to Proposed Findings of Fact, Conclusions of Law & Order  
15 17AA3683-17AA3691  
16

17 Findings of Fact, Conclusions of Law & Order 17AA3692-17AA3740  
18

19 Minute Order 17AA3744  
20

21 FOR THESE REASONS, we respectfully request that this Court find that the  
22 District Court did not sufficiently address the issues raised in Petitioner's action as  
23 noted in the electronically filed Objection to Proposed Findings of Fact, Conclusions  
24 of Law & Order 17AA3683-17AA3691 and remand the case back to the District  
25 Court ordering them to rule on these matters. In the alternative, if this Court  
26 finds that the necessary matters were fully addressed - we ask that they make a  
27 finding on the record indicating so.  
28

1  
2 Dated the 30<sup>th</sup> day of July 2021.

3  
4 /s/ DIANE LOWE

5 \_\_\_\_\_  
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14  
15 **CERTIFICATE OF SERVICE**

16 I hereby certify that service of this document was filed electronically with the  
17 Nevada Supreme Court on July 30, 2021. Electronic Service of the foregoing  
18 document shall be made in accordance with the Mater Service List as follows:

19 AARON D. FORD  
20 Nevada Attorney General

ALEXANDER G. CHEN  
Clark County District Attorney

21 The Honorable Judge Bitu Yeager  
22 Eighth Judicial District Court Department 1  
23 Service to Judge Yeager made via eFile in  
24 the District Court action and email to  
25 dept01lc@clarkcountycourts.us

26 /s/ DIANE LOWE

27 \_\_\_\_\_  
28 An Employee of Lowe Law, L.L.C.