

# IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY ODELL LONGSTREET, SR,  
Appellant(s),

vs.

THE STATE OF NEVADA; AND ELY  
STATE PRISON WARDEN WILLIAM  
GITTERE,  
Respondent(s),

Electronically Filed  
Mar 15 2022 02:50 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No: A-21-841927-W

Docket No: 84171

## RECORD ON APPEAL

**ATTORNEY FOR APPELLANT**  
ANTHONY LONGSTREET #1242017,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

**ATTORNEY FOR RESPONDENT**  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89155-2212

A-21-841927-W Anthony Longstreet, Plaintiff(s) vs. State of Nevada, Defendant(s)

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Anthony Odell Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301  
(775) 289-8800

FILED  
SEP 30 2021  
Clerk of Court

The Eighth Judicial District Court  
Clark County, Nevada

Anthony Odell Longstreet, SR.  
Petitioner,

v.

CASE No. A-21-841927-W  
Dept. 9

State of Nevada And  
Ely State Prison, Warden  
William Gittere  
Respondent.

Petition For Writ of State Habeas Corpus  
Petition For Writ of Post-Conviction Relief

Now Come Petitioner, Anthony Odell Longstreet, SR., Pursuant to the  
State Habeas Corpus And Post-Conviction Act under NRS 34.360 And  
NRS 34.725 (2)(b) Moving this Court For An Order to Modify  
Sentence and Order immediate Release From Custody. And In  
Support, Petitioner States the Following Below:

Petition

1) NAME OF Institution And County in Which you ARE Presently imprisoned  
OR Where And how you ARE Presently Restrained of your liberty:

WARDEN OF Ely State Prison  
MR. William Gittere  
4569 N. State Route  
Ely, Nevada, 89301  
(775) 289-8800

RECEIVED  
SEP 27 2021  
CLERK OF THE COURT

Petitioner Anthony Longstreet is being illegally Restrained of his liberty  
Pursuant to NRS 194.010(5) And (6), While being denied the Right to  
Challenge his sentence Because of Rule 3.70 Resulting in A complete

denial OF Access to the Court Because the Public Defender Office in CLARK County Refuses to Withdraw AFTER the CASE WAS Closed Pursuant to ~~NRS~~ Nevada Rules, Rule 46.

2.) Name And Location of Court which Entered the Judgment of Conviction under ATTACK:

Eighth Judicial District Court  
200 Lewis Avenue / 3rd Floor  
Las Vegas, Nevada 89155

3.) Date of Judgment of Conviction: JANUARY 27, 2021

4.) CASE Number:

A.) Length of Sentence: Minimum 19 months / Maximum 48 months

5.) ARE You Presently serving A sentence For A conviction other than the conviction under ATTACK in this Motion? NO

6.) Nature of Offense involved in conviction being challenged: Battery the Resulted in substantial Bodily Harm.

7.) What WAS Your PLEA? Guilty PLEA

8.) If you Entered A Guilty PLEA And it WAS Negotiated, Give detail: The State Filed two (2) MORE CRIMINAL CHARGES (Attempted Robbery And Burglary) And threatened to have Petitioner sentenced under the Habitual Criminal Statute And SEEK An Enhancement under NRS 193.167(1)(d)(2)(4)(B) if Petitioner did Not PLEAD Guilty to Battery Pursuant to NRS 200.481(A)(2)(B). Once Petitioner Accepted the PLEA Agreement the state dismissed the Burglary (NRS 205.060(1)), dismissed the Attempted Robbery (NRS 200.380(1); NRS 193.330(1)(A)(2)), dropped the Enhancement (NRS 193.167(1)(d)(2)) And Agreed Not to SEEK An Habitual sentence (NRS 207.010) With the Right to Argue.

9.) Did you Appeal From the Judgment of Conviction? NO! The CLARK County Deputy Public Defender Seth Gutierrez Refused to Appeal.

10.) Other than A direct Appeal From the Judgment of Conviction And sentence, have you Previously Filed Any Petitions, Applications OR Motions with respect to this Judgment in Any Court, state OR Federal? Yes

A.) NAME OF COURT: NEVADA Supreme Court  
201 S. CARSON Street/suite 201  
CARSON City, Nevada 89701

B.) NATURE OF PROCEEDING: Petition For Writ of Mandamus

C.) GROUNDS RAISED: Whether Rule 3.70 Abridge the Right  
OF A PRO-SE litigant Right of Access to the  
Court when the CASE is closed.

D.) Did you Receive An Evidentiary hearing? NO

E.) What WAS the Result? Writ denied Because there WAS NO  
Written order denying the Right to  
Proceed PRO-SE ON CRIMINAL CASE.

F.) DATE OF Result: July 30, 2021

G.) CASE Number: 83170

11.) As to Any second Petition, Application OR Motion, Give the same  
Information:

A.) NAME OF COURT: Eighth Judicial District Court  
200 Lewis Avenue/ 3rd Floor  
LAS VEGAS, Nevada 89155

B.) NATURE OF PROCEEDING: LAW Suit For Inducing A PLEA through  
ENTRAPMENT And Abuse of PROCESS  
And FRAUD

C.) GROUNDS(S) RAISED: Inducement Through Entrapment

D.) Did you Receive An Evidentiary Hearing? NO!

E.) What WAS the Result? CLARK County District Attorney Office  
has failed to File An Answer And has  
defaulted. Motion by Judgment of is  
About to be Filed For the Relief Requested.

F.) Date of Result? CASE Pending

G.) CASE Number: A-21-837183C

12.) Did you Appeal to the highest state or Federal court having Jurisdiction, the Result or Action taken on Any Petition, Application or Motion? No!

13.) ARE you Filing this Petition MORE than 1 YEAR Following the Filing of the Judgment of conviction or the Filing of A decision on direct Appeal? No!

14.) Do you HAVE Any Petition OR Appeal NOW Pending in Any court, either state or Federal, AS to the Judgment under Attacked? No!

15.) Give the NAME OF Each Attorney who Represented you in the Proceeding Resulting in your conviction And on direct Appeal:

Mr. Seth Gutierrez  
Deputy Public Defender of Clark County

16.) Do you HAVE Any Future sentences to serve AFTER you complete the one under Attacked? No!

17.) State concisely Every Ground on which you claim that you ARE being held unlawfully.

#### Ground (1)

Was Petitioner Longstreet Denied Effective Assistance of Counsel At sentencing When Counsel Argued For Imprisonment When Evidence show that Petitioner Made A Mistake And Accused the victim of taking his money off the counter.

#### Ground (2)

Do NRS 194.010 (5) And (6) mandate Imprisonment As Punishment when An Accuse make A Mistake From A delusion And AS A Result commit A criminal Offense without consciously thinking due to being under the influence of Alcohol?

### Ground (3)

Is Rule 3.70 used to impede And Abridge Access to the Court in Violation of the 14<sup>th</sup> Amendment of the United States Constitution when A defendant Attempt to File A Motion or Petition in Propria Persona in An Effort to Present Evidence in his Defense Pursuant to Title 42 U.S.C. § 1981(A) ???

### Ground (4)

Is Nevada Department of Corrections Prison Personnels using Administrative Rule 285 (5)(A) And (5)(C) to impede and Abridge Access to the Law Library And the Courts in violation of the 14<sup>th</sup> Amendment of the United States Constitution when A inmate Attempt to make Legal copies of documents OR/And to use the Mail Procedures to send out Legal Mail to the Courts, Attornies, And Public And Law Enforcement Officials?

Wherefore, Petitioner PRAY this court Modify his sentence to time SERVE And ORDER Petitioner Release From custody, And Grant other Appropriate Relief. Memorandum of Law is Attached with Appendix.

Sept. 16, 2021  
Date

Respectfully Submitted  
Anthony O. Longstreet, SR.  
PRO-se Petitioner (Minister)

### Verification

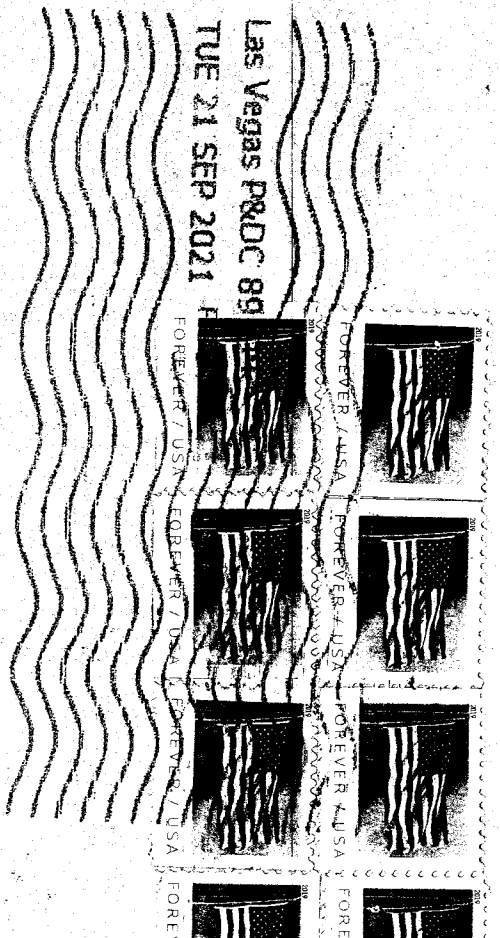
I, Anthony Odell Longstreet, SR., depose And state under Perjury of Nevada Law that I Am the one who wrote the Attached Petition and Memorandum of Law And Attached the Appendix And Based on Law and Research Find Probable CAUSE to File this Petition Asking For the Relief Requested.

Sept. 16, 2021  
Date

Respectfully Submitted  
Anthony O. Longstreet, SR.  
PRO-se Petitioner (Minister)



Anthony Longstreet, SR. # 1242017  
ELY STATE PRISON  
P.O. BOX 1481  
ELY, NEVADA 89301



To, Steven Grierson

Clerk of Court  
Eighth Judicial District Court  
200 Lewis Avenue / 3rd Floor  
LAS VEGAS, NEVADA 89155

(LEGAL MAIL)

Anthony Odell Longstreet, SR #1242017

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301

(775) 289-8800

**FILED**

**SEP 30 2021**

**CLERK OF COURT**

The Eighth Judicial District Court  
Clark County, Nevada

Anthony O. Longstreet, SR.

Petitioner,

Vs.

**A-21-841927-W**

CASE No. **Dept. 9**

State of Nevada And

Ely State Prison Warden

William Githere

Respondent,

Memorandum of Law In Support of Petition

Now come Petitioner, Anthony Odell Longstreet, SR., Acting In Propria  
Persona And coming In support of his Petition stating the following:

FACTS)

- 1.) On December 06, 2019, Petitioner Longstreet Picked up A Female  
Friend NAME SHAQUITA Rene Williams to transport her. And was Paid  
\$8<sup>00</sup> For GAS. Petitioner took the \$8<sup>00</sup> and spent it on A Pint of SEAGRAMS  
Gin And ORANGE Juice.
- 2.) Petitioner Longstreet SAT in Ms. Williams PARKING lot while he  
waited on her to get dressed while he DRANKED up his Alcohol. Dotty's  
CASINO is ACROSS the Street and they sold Food.
- 3.) Petitioner Longstreet hadn't Eaten and WAS A set income  
For A Physical disability And had Just Received his monthly  
income on his direct Express MASTER debit CARD. The CARD WAS  
green with Petitioner NAME on it. And when Petitioner had Recieved  
the \$8<sup>00</sup> in cash From Ms. Williams and spent it, his intent WAS to use

his MASTER Debit CARD to Purchase some Food From Dotty's before Proceeding to take Ms. Shaquita Williams where she needed to go.

4.) When A Person drink Alcohol the Body go through A series of steps. And depending on how much Alcohol A Person drink determines the level the Body REACHES. The three (3) levels of Intoxication ARE:

A) Mild Intoxication

B.) Moderate Intoxication, And

C.) Severe Intoxication.

And this information was written by Ada's Medical Knowledge Team updated on February 13, 2020 8:00 A.M. PST.

5.) According to Ada's medical Knowledge Team Moderate Alcohol Intoxication and severe Alcohol Intoxication makes A Person Agitated, Violent and uncooperative. And severe Alcohol Intoxication CAUSES "Delusions And Hallucinations". This is A sign of A Person being impaired by "Intoxication".

6.) When Petitioner drank up his Pint of Gin on An impty stomach he became impaired and went into Dotty's to Purchase some Food And thought he put money on the counter to Pay For Food. His then thought someone (The victim) had taken the money off the counter And he threatened the customer (The victim). The video show Petitioner walking AWAY From the victim AFTER threatening the victim. The video show the victim walking OVER to Petitioner to confront Petitioner about the threat,

7.) When the victim walked over to Petitioner Longstreet this was considered "Implied Consent" to A Fight, The video show the victim and Petitioner Longstreet standing face to face Before Petitioner Longstreet Began BEATING up the victim.

8.) The video show the victim is knocked out and is unconscious when the Fight is Broke up By security. However, because Petitioner Longstreet was under the influence of Alcohol he unconsciously went BACK OVER to where the victim WAS on the Floor And Attacked the victim Again until he Realized the victim WAS Not getting up to Fight

BACK Petitioner Longstreet stop hitting And Kicking the victim and lefted the casino; Grabbing his debit CARD From the cashier on his way out.

9.) On or Around July 09, 2020 Petitioner Longstreet Mailed A Fourteen (14) Page Affidavit to Deputy Public Defender Seth Gutierrez At the CLARK County Public Defenders office Explaining Petitioner was under the influence of Alcohol when this incident took Place. But counsel Never Allowed Petitioner Longstreet to Review the whole video Footage And Petitioner was Not AWARE that he did Not Put Any money on the counter until January 25, 2021 At sentencing when counsel stated on Record that Petitioner did Not Put any money on the counter.

10) The Evidence in this CASE clearly show that Because Petitioner was impaired that he had made A mistake because he thought he Put money on the counter And thought the victim took the money. And under NRS 194.010 (5) Nevada has Provided A defense in such A situation. And therefore, Petitioner Longstreet was not liable For Punishment and should Not had been sentenced to imprisonment.

11) Counsel Also Knew Petitioner Longstreet impairment caused him to Act unconsciously ~~and~~ Because he was impaired. And under NRS 194.010(6) Nevada has Provided A defense in such A situation. And therefore, Petitioner Longstreet was not liable For Punishment and should Not had been sentenced to imprisonment.

12.) On JANUARY 25, 2021, defense Counsel Seth Gutierrez Knew About these defenses and yet, ARGUED For A Minimum of 19 months and A Maximum of 48 months imprisonment AFTER the District Attorney Office Negotiated A PLEA Agreement by inducement through entrapment.

13) The state Reserved the Right to ARGUE At sentencing And never Produced Any Evidence that Petitioner Longstreet Possessed A Motive, Purpose OR intent to defeat An involuntary Intoxication defense under NRS 193.220; A defense Petitioner Longstreet Relied upon.

14.) Deputy Public Defender Seth Gutierrez helped the state convict Petitioner because he Refused to withdraw From the case After Petitioner Longstreet had Filed Motions Requesting LEAVE to Proceed Pro-se.

15) There WERE VARIOUS motions that Petitioner Longstreet had Attempted to File And those motions WERE Not Filed Pursuant to Rule 3.70. This Rule WAS used to impede And Abridge Petitioner Longstreet Right of Access to the court when Filing motions And Petitions in Propria Persona Because the Deputy Public Defender Seth Gutierrez had the Petitioner

Sitting in Jail without investigating any possible defense to push the case forward to avoid a long delay of access to trial.

16.) Evidence show that approximately five (5) motions were attempted to be filed by Petitioner Longstreet "In Propria Persona" because Clark County Deputy Public Defender Seth Gutierrez had Petitioner Longstreet sitting in Clark County Detention Center without pushing Petitioner case through the court system so the case could go to trial.

A.) July 18 And 21, 2020 Letter Requesting

A copy of Notice of Witnesses And the Deputy Clerk of Court Reply;

B.) August 17, 2020 Motion to Dismiss Case Rejected Because of Rule 3.70;

C.) August 17, 2020 Motion to Disqualify Judge Rejected Because of Rule 3.70;

D.) August 17, 2020 Petition For Writ of Mandamus Requesting Leave to Proceed Pro-se to Nevada Supreme Court Rejected Because of Rule 3.70;

E.) September 21, 2020 Motion In Limine Rejected Because of Rule 3.70; And

F.) May 03, 2021 Motion To Modify sentence Rejected Because of Rule 3.70.

17.) All six (6) motions/Petition were copied and the copies were forwarded to the Clark County Public Defenders Office for their consideration. And they never filed any of the motions and impeded upon Petitioner Longstreet Right of Access to the court. This is where ineffective Assistance of Counsel occurred.

18.) Once Petitioner Longstreet was sentenced to imprisonment Prison Officials began using Administrative Rule 258.14 (5)(A) and (5)(C) to impede and abridge his access to Law Library services and mail services to interfere with Petitioner Longstreet Right of Access to the court while trying to address his criminal conviction and sentence.

19.) Court Rule 3.70 And the Nevada Department of Correction Administrative Rule 258.14 (5)(A) and (5)(C) are being used to impede and abridge Petitioner Longstreet Right of Access to the court in violation of the 14<sup>th</sup> Amendment of the United States Constitution and should be ruled as

invalid.

### Ground (1) And (2)

WAS Petitioner Longstreet Denied Effective Assistance of Counsel At sentencing when Counsel Argued For Imprisonment when Evidence show that Petitioner Made A Mistake and Accused the victim of Taking his money off the Counter?

20.) On or Around July 09, 2020 Petitioner Longstreet Mailed A Fourteen (14) Page Affidavit to Deputy Public Defender Seth Gutierrez At Clark County Public Defenders Office. And the Affidavit explained what took place as well as informed the Deputy Public Defender that Petitioner Longstreet WAS intoxicated At the time of the Alleged Fight with the victim.

21.) The Affidavit Also showed two (2) Possible defenses under NRS 194.010 (5) And (6) And why those defenses WERE NECESSARY. Counsel Failed to investigate those defenses And Refused to implement Any of those defenses At sentencing January 25, 2021 by Asking For imprisonment when NRS 194.010 (5) and (6) clearly states that An Accuse is Not Liable For Punishment if the Accused MEET Any of the Qualifications under NRS 194.010.

22.) NRS 194.010 states, in PART, AS Followed:

"All Persons ARE Liable to Punishment,  
Except those belonging to the Following  
Classes:"

ONE OF the Classes that Petitioner Longstreet Relied upon WAS under PARAGRAPH (5); which stated:

"Persons who committed the Act OR Made the Omission charged under An ignorance OR Mistake of Fact, which "disproves" Any Criminal Intent, where A specific intent is Required to constitute the offense."

23.) Under NRS 200.481 (1) (A) BATTERY MEANS Any Willful and unlawful use of Force OR Violence upon the Person of Another. According to the dictionary of Law, Willful is defined As:

Willful : Not Accidental; Done deliberately  
or knowingly and often in conscious violation  
or disregard of the law, duty, or the rights  
of others.

24) IF Petitioner Longstreet was impaired due to Alcohol intoxication and had delusional thoughts that a customer (The Victim) had taken his money off the counter after Petitioner ordered some food. It can be inferred that Petitioner Longstreet acted out of ignorance to the fact that he did not place any money on the counter and that Petitioner was suffering from a severe case of Alcohol Intoxication rendering him impaired. And according to NRS 194.010 (5) All persons are liable to punishment "except" those belonging to the following classes: (5) where a person who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent, where a specific intent is required to constitute the offense.

25) In State of Nevada v. Lewis, 20 Nev. 333, 22 P. 241 (1889 Nev. Lexis 13) The Supreme Court gave a test for wrong or right to be distinguished in determining whether the defendant knew the act charged to be wrong, and knew it at the very time of its commission:

(1) The true test of criminal responsibility, where the defense of insanity is interposed, is whether the accused had, at the time, sufficient use of his reasons to understand the nature of the act he was committing, and to understand that it was wrong and contrary to law for him to commit it

(2) Was his condition such, that he was unable to understand that the nature of his actions or, to distinguish between right and wrong in his conduct?

(3) Was he subject to insane delusions that destroyed his power to so distinguish, and did this condition continue down to and embrace the act for which he is charged?

26.) Since this CASE did NOT Proceed to trial, the Rule of evidence did NOT involve the "Reasonable Doubt" Rule. So on January 25, 2021 the Deputy Public Defender Seth Gutierrez WAS REQUIRED to Produce evidence in Mitigation under the "CLEAR and Convincing Evidence Rule" to Persuade the Court in Mitigation that Petitioner Longstreet WAS, in Fact, impaired From Alcohol Intoxication And used the Video Footage on this CASE to show that Petitioner Longstreet suffered From A delusion And/OR A Hallucination when he made A Mistake, while Acting out of ignorance OF Fact Pursuant to NRS 194.010(5), And Accused A customer (The victim) OF taking money off the counter Belonging to Petitioner when the video Footage showed that Petitioner Longstreet did NOT Place any money on the counter After he PLaced his order For some Food.

27.) By using the Video Footage And the Right Argument Deputy Public Defender Seth Gutierrez could have convince the court NOT to sentence Petitioner Longstreet to imprisonment Because NRS 194.010(5) WAS AN Exception to imprisonment if Petitioner Longstreet had Qualified under PARAGRAPH (5) of NRS 194.010.

28.) And because Petitioner Longstreet WAS impaired by Alcohol Intoxication he Acted unconsciously Pursuant to NRS 194.010(6) And WAS NOT AWARE OF what he WAS doing that resulted in A BATTERY Against A customer From Believing the customer took money off the counter when the video show Longstreet did NOT Put any money on the counter After PLacing An order For Food.

29.) By ARGuing in Mitigation For imprisonment counsel WAS ineffective and violated Petitioner Longstreet 6<sup>th</sup> Amendment Right to Effective Assistance of counsel At sentencing.

30.) To show A violation of the Right to Effective Assistance of counsel, Petitioner Longstreet must demonstrate:

A.) That counsel Performance WAS deficient; And

B.) That the deficiency Prejudiced the Petitioner.

STRICKLAND V. WASHINGTON, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984).

Petitioner Longstreet has demonstrated counsel deficient Performance And Prejudice REQUIRING to be Re-sentence to time serve. NRS 194.010 (5) And (6) is An "Exception" to imprisonment.

31.) Judge Jasmin Lilly - spells sentence Petitioner Longstreet to A minimum of 19 months and A maximum of 48 months imprisonment upon Recommendation of Deputy Public Defender Seth Gutierrez JANUARY 27, 2021 Pursuant to NRS 173.033(1)(B) And NRS 193.130(2)(C). And these statutes ARE in conflict with NRS 194.010(5)(6) when Applied to Petitioner Longstreet CASE.



32.) Petitioner Longstreet defense in Mitigation At sentencing should had been time served with A conviction For BATTERY and Release From Custody, Because NRS 194.010 (5) And (6) does not hold An Accuse Liable For Punishment if certain CRITERIORS ARE established. NRS 194.010 is A Specific statute that sets Forth An Exception to the General statutes under NRS 176.033(1)(B) and NRS 193.130(2)(C). which Mandates imprisonment.

33.) In Williams v. State Department of Corrections, 402 P.3d 1260 (2017) the Nevada Supreme Court said:

"When two statutory Provisions conflict, we employ the Rules of statutory construction to resolve the conflict. Two Rules of statutory construction Guide our decision in this MATTER: The General/Specific canon And the implied REPEAL CANON."

34.) In A situation like this CASE Judge Jasmin Lilly-Spells should Apply the General/Specific Canon Rule. Why? Because NRS 194.010 is A specific statute that sets Forth An Exception to imprisonment under the General statutes of NRS 176.033(1)(B) And NRS 193.130(2)(C).

35.) On January 27, 2021 Judge Jasmin - Lilly Spells said on Record that she WAS sentencing Petitioner Longstreet to imprisonment Because the BATTERY WAS A violent crime. Not because Longstreet did not meet the Requirements under NRS 194.010(5)(6). And the state never put up A Rebuttal to dispute Petitioner defense At sentencing JANUARY 27, 2021 when Petitioner stated on Record that he was intoxicated and had made A Mistake.

Petitioner Longstreet is entitled to have his sentence Modified to time served Based on this Argument and is entitled to immediate Release. The Courts Role is only "To guard Against Extreme Malfunction of the state CRIMINAL Justice system." DAVIS V. AYALA, 135 S.Ct. 2187, 2202, 192 L.Ed.2d 323 (2015),

### Grounds (3) And (4)

Is Rule 3.70 used to impede And Abridge Access to the court in violation of the 14<sup>th</sup> Amendment of the United States Constitution when A defendant Attempt to File A motion OR Petition in PROPRIA PERSONA in An Effort to Present Evidence in his Defense Pursuant to Title 42 U.S.C. § 1981CA)??

"And"

Is Nevada Department of Corrections Prison Personnel Using Administrative Rule 285(5)(A) And (5)(C) To Impede And Abridge Access to the Law Library And the courts in violation of the 14<sup>th</sup> Amendment of the United States Constitution when A inmate Attempt to make Legal copies of documents OR/And to use the Mail Procedures to send out Legal Mail to the courts, Attornies, And Public And Law Enforcement Officials??

36.) Evidence show that Approximately Five (5) motion's were Attempted to be Filed by Petitioner Longstreet "In Propria Persona" because CLARK County Deputy Public Defender Seth Gutierrez had Petitioner Longstreet sitting in CLARK County Detention Center without Pushing Petitioner Criminal Case through the court system so the case could go to trial And those Motions WERE Not Filed because of Rule 3.70.

37.) Rule 3.70 specifically states:

"Except AS MAY be Required by the Provisions of NRS 34.730 to 34.830, inclusive, All Motions, Petitions, Pleadings OR Other Papers delivered to the Clerk of the Court by A defendant who has counsel of Record will Not be Filed but must be MARKed with the date Received And A copy Forwarded to the Attorney For such consideration AS "Counsel deems APPROPRIATE" This Rule does Not Apply to Applications made Pursuant to Rule 7.40(b)(2)(ii)."

38.) This Rule 3.70 WAS used by Court Personnel to impede And Abridge Petitioner Longstreet Right of Access to the court. And it violates the 14<sup>th</sup> Amendment of the United States Constitution. Which SAids:

"NO state shall make OR enforce Any LAW which shall Abridge the Privileges OR Immunities of Citizens of the United States." Slaughter-House, 83 U.S. 36, 81-82, 21 L.Ed. 394 (1872)

39.) Rule 3.70 WAS used to deny Petitioner Longstreet From Filing Five (5) Motions "In Propria Persona" And the Rule should be invalidated. In Poe V. Ullman, 367 U.S. 497, 504, 81 S.Ct. 1752, 6 L.Ed. 2d 989 (1961) the United States Supreme Court said:

"The VARIOUS doctrines of "standing", "Ripeness", And "Mootness", which this Court has evolved with Particular,

through Not Exclusive, Reference of such CASES ARE but several Manifestation -- Each having its own "VARIED Application" -- of the PRIMARY conception that Federal Judicial Power is to be exercised to strike down legislation, whether state or Federal, only At the instance of one who is himself immediately harmed, or immediately threatened with harm, by the challenged Action. . . . . The Party who invokes the Power [to Annul legislation on Grounds of its unconstitutionality] must Be Able to show not only that the statute is invalid but that he has sustained or is immediately in danger of sustaining some direct injury as the Result of its enforcement."

40.) Rule 3.70 has been used to impede and Abridge Access to the court Resulting in Petitioner Longstreet Being denied the constitutional Right to Fight his conviction and sentence. This has Resulted in A complete denial of Access to the court where Petitioner Longstreet is being Forced to serve an illegal sentence due to ineffective of counsel and A conflict of interest.

41) Once Petitioner Longstreet was Registered into the Nevada Department of Correction Clark County District Attorney Office has Red tagged Petitioner giving Prison Officials the Green light to interfere with Petitioner Access to Legal services. And Prison Officials has decided they would use the BRASS slip Procedures As A MEANS to impede and Abridge Access to the law Library and mail services.

42) According to Administrative Rule 258.14(5)(A) and (5)(C) the Following must be complied with in order to Affect Access to mail and Law Library services. IF these Procedures ARE NOT complied with An inmate will be denied services to mail and Law Library services Resulting in An impediment and Abridgement of Access to the courts. The Administrative Rule 258.14(5)(A) and (5)(C) states As Followed:

(5)(A) An inmate initiates A BRASS slip by completing it in its entirety including: date, dollar amount, Payee OR Purpose; signature; inmate Name; I.D. Number; and institution.

(5)(C) The inmate shall submit the BRASS slip to authorized staff who will verify the inmate identity."

43.) When Petitioner Longstreet submit BRASS slips for legal copy services the officers would ensure that they would have a senior officer sign the BRASS slip to get petitioner to trust them and release his legal documents to them and then they would read petitioner legal document and submit the document and BRASS slip to the Law Library unsigned so that the Law Library Supervisor Ms. Sandy Rose would have a reason not to process petitioner request and return the BRASS slip and legal documents back with the request slip unprocessed to impede upon access to Law Library services resulting in a delay or a complete denial access to the court.

44.) The BRASS slip Administrative Rule is being used by the Correctional Officers as a vehicle to impede and abridge access to Law Library and mail services. In *Ex Parte Hull*, 312 U.S. 546, 61 S.Ct. 640, 85 L.Ed. 1034 (1941) a state prison rule abridging or impairing a prisoner's right to apply to the federal courts for a writ of habeas corpus was ruled invalid.

45.) In *Ex Parte Hull*, the warden filed a return to the rule setting forth the circumstances of two (2) convictions, the proceedings of the Parole Board, and numerous exhibits. In justification of the action preventing petitioner from filing his papers or communication with the federal court, the warden alleged that in November, 1940, he had published a regulation providing that: "All legal documents, briefs, petitions, motions, habeas corpus proceedings and appeals will first have to be submitted to the institutional welfare office and if favorably acted upon be then referred to Perry A. Maynard, legal investigator to the Parole Board, Lansing, Michigan. Documents submitted to Perry A. Maynard, if in his opinion are properly drawn, will be directed to the court designated or will be referred back to the inmate. The United States Supreme Court ruled the regulation invalid stating the state and its officers may not abridge or impair petitioners right to apply to a federal court. And a warrant issued for the wardens arrest for civil rights violations for impeding against right of access to the court.

Wherefore, petitioner Longstreet pray this court modify his sentence to time serve and invalidate the rules alleged in this petition.

Respectfully submitted

Anthony O. Longstreet, SR.  
PRO-se Petitioner

## Appendix

- 1.) PRO-SE letter dated July 18, 2020 Requesting A copy OF Notice of Witnesses.
- 2.) Letter dated July 27, 2020 denying Request For A copy OF Notice of Witnesses.
- 3.) Rule 3.70 letter dated August 17, 2020 Refusing to File Motion to Disqualify Judge And Motion to Dismiss
- 4.) Rule 3.70 Letter dated August 17, 2020 Refusing to File Petition For writ of Mandamus.
- 5.) Rule 3.70 letter dated September 21, 2020 Refusing to File Motion In Limine.
- 6.) Rule 3.70 Letter dated May 03, 2021 Refusing to File Motion to Modify sentence.
- 7.) CASE SUMMARY showing Repeated Request to Proceed PRO-SE WAS denied continually.
- 8.) Inmate Request Form Dated 8/04/2021 showing BRASS slips WAS NOT Accepted by LAW LIBRARY Supervisor Ms Sandy Rose.

July 18, 2020

Anthony O. Longstreet, SR. #6028264

CLARK County Detention Center

330 S. Casino Center Blvd

LAS VEGAS, NEVADA 89101

To: Steven D. Grierson

CLERK OF COURT

200 LEWIS AVENUE

LAS VEGAS, NEVADA 89155

CASE NO. C-20-348182-1

Douglas W. Herndon

Presiding Judge

Official Business

DEAR CLERK OF COURT

I just received A copy of the case summary and AFTER going through my records I noticed I don't have A copy of the Notice of Witnesses in my Records that was Filed By the Plaintiff on 06/15/2020. Can you PLEASE send me A copy of the Notice of Witnesses and/or Expert witnesses that was filed on 06/15/2020 By the state? I don't have A copy? I'll be filing A Motion to Dismiss shortly.

Thank You

Anthony O. Longstreet, SR.  
Pro-se Defendant

RECEIVED

JUL 27 2020

CLERK OF THE COURT



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

**INMATE CORRESPONDENCE**

July 27, 2020

**Re: C-20-348182-1 / Department 3**

**State of Nevada**

**vs**

**Anthony Longstreet, Defendant**

- ☐ A court order is required to complete the request.
- ☐ Documents are sealed. Court order is required to reproduce. (PSI)
- ☐ Documents requested are not in court file at this time.
- ☐ Transcripts have not been filed. Court order required.
- ☐ Copies are \$.50 per page or by court order.
- ☐ Consult your law library for this information.
- ☐ District Court does/does not show any outstanding warrants under the above referenced defendant name.
- ☒ Other: Please contact your attorney for a copy of "Notice of Witnesses".

Cordially yours,  
DC Criminal Desk #7  
Deputy Clerk of the Court



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

August 17, 2020

**Attorney:** Public Defender  
Clark County Public Defender  
309 S 3rd Street Suite #2  
Las Vegas NV 89101

**Case Number:** C-20-348182-1  
**Department:** Department 3

**Defendant:** Anthony Odell Longstreet

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: Motion To Disqualify Judge Motion To Dismiss

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court

(Exhibit #1)





**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

August 17, 2020

**Attorney:** Public Defender  
Clark County Public Defender  
309 S 3rd Street Suite #2  
Las Vegas NV 89101

**Case Number:** C-20-348182-1  
**Department:** Department 3

**Defendant:** Anthony Odell Longstreet

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Petition For Writ Of Mandamus**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

September 21, 2020

**Attorney:** Public Defender  
Clark County Public Defender  
309 S 3rd Street Suite #2  
Las Vegas NV 89101

**Case Number:** C-20-348182-1  
**Department:** Department 3

**Defendant:** Anthony Odell Longstreet

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion In Limine**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

May 03, 2021 (Received May 06, 2021)

**Attorney:** Public Defender  
Clark County Public Defender  
309 S 3rd Street Suite #2  
Las Vegas NV 89101

**Case Number:** C-20-348182-1  
**Department:** Department 23

**Defendant:** Anthony Odell Longstreet

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion To Modify Sentence**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court

## CASE SUMMARY

CASE NO. C-20-348182-1

State of Nevada  
vs  
Anthony Longstreet

§  
§  
§  
§  
§  
§  
§  
§  
§

Location: Department 23  
Judicial Officer: Lilly-Spells, Jasmin  
Filed on: 04/28/2020  
Case Number History:  
Cross-Reference Case Number: C348182  
Defendant's Scope ID #: 6028264  
ITAG Case ID: 2206926  
Lower Court Case # Root: 20FN0563  
Lower Court Case Number: 20FN0563X

## CASE INFORMATION

Offense	Statute	Deg	Date	Case Type: Felony/Gross Misdemeanor
1. BATTERY WITH SUBSTANTIAL BODILY HARM Arrest: 03/02/2020	200.481.2b	F	12/06/2019	Case Status: 02/07/2021 Closed
2. ATTEMPT ROBBERY	200.380	F	12/06/2019	
3. BURGLARY	205.060.2	F	12/06/2019	

## Statistical Closures

02/07/2021 Guilty Plea with Sentence (before trial) (CR)

## DATE

## CASE ASSIGNMENT

## Current Case Assignment

Case Number C-20-348182-1  
Court Department 23  
Date Assigned 01/04/2021  
Judicial Officer Lilly-Spells, Jasmin

## PARTY INFORMATION

Defendant Longstreet, Anthony Odell

Lead Attorneys

Public Defender  
Public Defender  
702-455-4685(W)

Plaintiff State of Nevada


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


## DATE


## EVENTS &amp; ORDERS OF THE COURT


## INDEX


## EVENTS

04/28/2020  Criminal Bindover - Confidential

04/28/2020  Criminal Bindover

04/30/2020  Information  
Party: Plaintiff State of Nevada  
Information


05/12/2020  Guilty Plea Agreement  
Guilty Plea Agreement

06/15/2020  Notice of Witnesses and/or Expert Witnesses


**CASE SUMMARY**  
**CASE NO. C-20-348182-1**

Filed By: Plaintiff State of Nevada  
*State's Notice of Witnesses and/or Expert Witnesses*


08/20/2020

 Notice of Witnesses and/or Expert Witnesses  
Filed By: Plaintiff State of Nevada  
*State's Supplemental Notice of Witnesses and/or Expert Witnesses*


08/21/2020

 Ex Parte Order  
*Ex Parte Motion and Order For Release of Certified Medical Records and Order to File Under Seal*


09/03/2020

 Notice  
Filed By: Plaintiff State of Nevada  
*State's Notice of Intent to Seek Punishment as a Habitual Criminal*


09/21/2020

 Motion  
Filed By: Defendant Longstreet, Anthony Odell  
*Motion to Discharge Public Defender*


09/21/2020

 Notice of Motion  
Filed By: Defendant Longstreet, Anthony Odell  
*Notice of Filing*


10/06/2020

 Order  
*Order Releasing Certified Medical Records and Authorization for Related Witness Testimony*


10/29/2020

 Ex Parte Motion  
*Ex Parte Motion for Release of Certified Medical Records and Authorization for Related Witness Testimony*


11/09/2020

 Order Denying Motion  
Filed By: Plaintiff State of Nevada  
*Order Denying Defendant's Pro Per Motion to Discharge Public Defender*


11/19/2020

 Motion to Compel  
Filed By: Defendant Longstreet, Anthony Odell  
*Motion To Compel Production Of Discovery & Brady Material*


11/30/2020

 Guilty Plea Agreement  
Party: Defendant Longstreet, Anthony Odell  
*Guilty Plea Agreement*

12/15/2020

 Motion  
Filed By: Defendant Longstreet, Anthony Odell  
*Motion for Ineffective Assistance of Counsel and Appoint an Alternative Counsel*

12/15/2020

 Memorandum  
Filed By: Defendant Longstreet, Anthony Odell  
*Memorandum in Support of Motion for Ineffective Assistance of Counsel and Appoint an Alternative Counsel*

12/30/2020

 PSI

01/04/2021


Case Reassigned to Department 23

## CASE SUMMARY


CASE NO. C-20-348182-1

*Judicial Reassignment to Judge Jasmin Lilly-Spells*



01/06/2021

 Notice of Change of Hearing  
*Notice of Change of Hearing*

02/07/2021

 Judgment of Conviction  
*C348182-1 LONGSTREET, ANTHONY*

03/04/2021

 Notice of Change of Address   
*Notice of Change of Address*

**DISPOSITIONS**


12/01/2020

**Disposition** (Judicial Officer: Herndon, Douglas W.)  
*Amended and Second Amended Information's Stricken*  
 2. ATTEMPT ROBBERY  
 Stricken  
 PCN: Sequence:

3. BURGLARY  
 Stricken  
 PCN: Sequence:

**HEARINGS**

05/06/2020


 **Initial Arraignment** (8:00 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

*Madilyn Cole, Dep DA, present on behalf of the State; Lynn Avants, Dep PD, present on behalf of Deft. Longstreet, who is also present. This is the time set for the Initial Arraignment. Mr. Avants advised that Guilty Plea Agreement needs to be reviewed with the Deft. prior to his entry of plea; therefore, he would request that the matter be CONTINUED so the assigned Deputy can meet with the Deft. Upon Court's inquiry, the Deft. stated that he does not have an attorney and he has already been granted leave to represent himself. Mr. Avants discussed the Justice Court proceedings; the Deft. unconditionally WAIVED out of Justice Court; Seth Gutierrez, Dep PD, was present. According to Mr. Avants' notes, it does not appear that the Deft. has been canvassed with regard to self-representation. The Deft. then stated that he filed a formal motion but there is no record of that. Therefore, COURT ORDERED, matter set for Continued Arraignment. If the Deft. still wants to represent himself, he needs to speak with counsel first. CUSTODY 05/13/20 8:00 AM ARRAIGNMENT CONTINUED;*

05/13/2020

 **Arraignment Continued** (8:00 AM) (Judicial Officer: Silva, Cristina D.)

Plea Entered;

Journal Entry Details:


*Sarah Overly, Chf Dep DA, present on behalf of the State; Bryan Cox, Dep PD, appearing on behalf of Deft. Longstreet, who is also present. This is the time set for the Continued Arraignment. A Guilty Plea Agreement (GPA) was e-filed on May 12, 2020. During the plea canvass, the Deft. stated that he does not have any attorney, he is representing himself because he filed a Motion on April 2 and it has been granted. Therefore, Mr. Cox is just assisting him. Court noted that there is no record of the Deft.'s Motion in Odyssey; colloquy. In light of the filed GPA, Mr. Cox inquired as to whether the Deft. wanted to continue with the plea colloquy. The Deft. stated that he would go forward but he wanted the Court to understand that Mr. Cox is just assisting him. The Deft. then took issue with a statement in the GPA wherein he WAIVES his right to challenge the legality of these proceedings; he believes that is a violation of his rights. The Court advised the offer from the State is as stated in the GPA, the Deft. can take it as it is or he can reject it. If the offer is rejected, the Court cannot proceed with the plea canvass this morning. The Deft. stated he would accept the offer under duress. The COURT advised that it would NOT accept the Deft.'s guilty plea this morning but instead would enter a plea of NOT GUILTY on his behalf and INVOKE THE SIXTY (60)-DAY RULE. COURT ORDERED, matter set for trial. CUSTODY 07/09/20 9:00 AM CALENDAR CALL (DC3)*

## CASE SUMMARY

CASE NO. C-20-348182-1

07/13/20 10:00 AM JURY TRIAL (DC3);

07/09/2020

 **Calendar Call (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)

Hearing Set;

Journal Entry Details:


*Mr. Gutierrez indicated the State e-mailed him a copy of the Amended Information they filed, which reflects everything that was original charges in Justice Court. Ms. Albritton stated the document has not been filed yet, and she was requesting leave of the Court to file it. COURT SO ORDERED. Defendant stated he wanted to represent himself. COURT ADVISED there has not been any Motions filed to represent himself, adding if the documents were filed in Justice Court, they need to be re-filed in District Court. Colloquy regarding trial dates. COURT FURTHER ORDERED, trial date VACATED; Faretta Canvass SET. CUSTODY 7/21/2020 3:30 P.M. FARETTA CANVASS;*

07/13/2020

**CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Herndon, Douglas W.)

Vacated - per Judge

07/21/2020

 **Faretta Canvass (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)

07/21/2020, 09/15/2020

Trial Date Set;

Trial Date Set;

Journal Entry Details:

*Mr. Gutierrez informed the Court the Defendant wanted to represent himself again. COURT STATED they are not inclined to revisit their prior ruling, and ORDERED trial date SET. CUSTODY 11/24/2020 3:30 P.M. CALENDAR CALL 1/30/2020 10:00 A.M. JURY TRIAL;*


Trial Date Set;

Trial Date Set;

Journal Entry Details:

*Upon Court's inquiry, Defendant stated he wishes to represent himself. Court conducted Faretta Canvass. COURT ORDERED, Defendant's request to represent himself DENIED; the Public Defender's Office will remain as counsel of record. Ms. Albritton stated the Defendant has never represented himself before. COURT FURTHER ORDERED, trial date SET. CUSTODY 9/10/2020 9:00 A.M. CALENDAR CALL 9/14/2020 10:00 A.M. JURY TRIAL;*

09/09/2020


 **Central Trial Readiness Conference (2:00 PM)** (Judicial Officer: Bell, Linda Marie)

Matter Heard;

Journal Entry Details:

*Defendant not present. Mr. Gutierrez advised all discovery has been received from the State however Defendant is still requesting to represent himself therefore defense can not announce ready if Defendant is not cooperating. State advised it is still waiting on some records. COURT ORDERED, trial date to be RESET by department. CUSTODY;*

09/10/2020

 **Calendar Call (3:30 PM)** (Judicial Officer: Jones, Tierra)

Hearing Set;

Journal Entry Details:


*Mr. Gutierrez stated parties attended a Central Trial Readiness yesterday, and they are not ready to proceed to trial, and requested the matter be set for a Faretta Canvass. Upon Court's inquiry, Defendant stated he wanted to represent himself. COURT ORDERED, trial date VACATED; Faretta Canvass SET. CUSTODY 9/15/2020 3:30 P.M. FARETTA CANVASS;*

09/14/2020

**CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Herndon, Douglas W.)

Vacated - per Judge

10/15/2020

 **Motion (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)

Defendant's Pro Per Motion to Discharge Public Defender

Motion Denied; Defendant's Pro Per Motion to Discharge Public Defender

Journal Entry Details:


*Mr. Gutierrez stated he spoke with the Defendant last night, and the Defendant is not happy with him, as the Defendant does not like me, and he does not feel there is any basis for it, other than the fact that he will not file a frivolous motion on behalf of the Defendant. Mr. Gutierrez*

# CASE SUMMARY

## CASE NO. C-20-348182-1

stated he has also spoke with Ms. Albritton, and is prepared to proceed to trial, explained to the Defendant the consequences of what could happen if the matter does proceed to trial, adding the Defendant has requested to represent himself, and the Faretta Canvas has been done twice. Mr. Gutierrez further stated if the Court would allow the Defendant to represent himself, he would be fine sitting as stand by counsel during trial. Upon Court's inquiry, Defendant stated Mr. Gutierrez has not file any Motion, and he has been denied the right to see the video tape, and he is not prepared to proceed to trial. Mr. Gutierrez stated he did show the Defendant the video prior to waiving up, and it was on his cell phone while parties were on a video conference. Defendant stated he cannot go to trial with Mr. Gutierrez. COURT STATED the trial is still a month away, and there is a lot that gets completed right before trial, and the Court understands the Defendant's frustration regarding no Motions being filed, however the Attorney's have autonomy on their on to make a decision on whether a Motion is good to file, or a frivolous Motion, and they have an obligation to not file frivolous Motions. COURT ADDITIONALLY STATED when the matter reaches calendar call, and the Defendant still feels he cannot work with his attorney, then the Court can readdress the appointment of new counsel, and right now as of everything the Court has reviewed there is no basis to remove Mr. Gutierrez as counsel of record. COURT ORDERED, Motion to Discharge Public Defender DENIED. Mr. Gutierrez stated the most recent offer for the record. CUSTODY 11/24/2020 3:30 P.M. CALENDAR CALL 11/30/2020 10:00 A.M. JURY TRIAL;

11/24/2020

 **Calendar Call (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)

Set Status Check;

Journal Entry Details:

Mr. Gutierrez informed the Court the Defendant wants to go forward with the negotiations that were previously offered. COURT ORDERED, trial date VACATED, entry of plea SET and DIRECTED Mr. Gutierrez to meet with the Defendant to review the plea. CUSTODY 12/01/2020 3:30 P.M. ENTRY OF PLEA... DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY AND BRAD MATERIAL...;

11/30/2020

**CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Herndon, Douglas W.)  
Vacated - per Judge


12/01/2020

**Motion to Compel (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)  
Defendant's Motion to Compel Production of Discovery and Brady Material  
Moot;

12/01/2020

**Entry of Plea (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)  
Plea Entered;

12/01/2020


 **All Pending Motions (3:30 PM)** (Judicial Officer: Herndon, Douglas W.)

Matter Heard;

Journal Entry Details:

DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY AND BRADY MATERIAL... ENTRY OF PLEA... Mr. Gutierrez informed the Court he filed the Guilty Plea Agreement (GPA). NEGOTIATIONS are as contained in the Guilty Plea Agreement PREVIOUSLY FILED. DEFENDANT LONGSTREET ARRAIGNED AND PLED GUILTY TO BATTERY WITH SUBSTANTIAL BODILY HARM (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. MATTER RECALLED. Defendant not present. Ms. Albritton requested the Second Amended Information filed on July 13, 2020, and the Amended Information filed on July 10, 2020 be stricken. COURT ORDERED, Second Amended Information filed on July 13, 2020, and the Amended Information filed on July 10, 2020 be STRICKEN as the matter will proceed on the Information filed April 30, 2020. COURT FURTHER ORDERED, Defendant's Motion to Compel Production of Discovery and brady Material MOOT. CUSTODY 1/26/2021 9:00 A.M. SENTENCING;

01/11/2021

 **Motion (11:00 AM)** (Judicial Officer: Lilly-Spells, Jasmin)  
01/11/2021, 01/25/2021

Motion for Ineffective Assistance of Counsel and Appoint an Alternative Counsel

Matter Continued;

Denied;

Matter Continued;



# CASE SUMMARY

## CASE NO. C-20-348182-1

Denied;

Journal Entry Details:

Upon Court's inquiry, Deft. stated his concerns were that he did not have a copy of the Guilty Plea Agreement, copy of the State's Notice to File Habitual Criminal treatment, and did not want to be treated as a habitual criminal. State advised they were not going forward with habitual treatment and no certified Judgment of Convictions had been filed. Upon Court's inquiry, Deft. stated that he would like to represent himself to argue his case during sentencing. Mr. Gutierrez advised they disagreed with the most beneficial way to argue the merits of the case. Court DIRECTED Mr. Gutierrez to mail a copy of the Guilty Plea Agreement, State's Notice to File Habitual by January 13, 2021, and to meet with Deft. by phone or video to discuss how to proceed during sentencing. Court advised it needed to review why the Motion was previously denied and ORDERED, matter CONTINUED. CUSTODY 1/25/21 11:00 AM - MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND APPOINT AN ALTERNATIVE COUNSEL;

01/25/2021



**Sentencing (11:00 AM)** (Judicial Officer: Lilly-Spells, Jasmin)

01/25/2021, 01/27/2021

Matter Continued;

Defendant Sentenced;

Journal Entry Details:

Court noted it was unable to view the video due to the application not working and could continue matter to view it. Deft. stated he would prefer to proceed with sentencing today. Statement by Deft and argument by Ms. Phenix. Court reviewed a portion of the surveillance video. DEFT LONGSTREET ADJUDGED GUILTY of BATTERY WITH SUBSTANTIAL BODILY HARM (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Deft. SENTENCED to a MINIMUM of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC), with THREE HUNDRED THIRTY-FOUR (334) DAYS credit for time served. Colloquy regarding the amount of felony's Deft. had. BOND, if any, EXONERATED. NDC;

Matter Continued;

Defendant Sentenced;

01/25/2021



**All Pending Motions (11:00 AM)** (Judicial Officer: Lilly-Spells, Jasmin)

Matter Heard;

Journal Entry Details:

MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND APPOINT AN ALTERNATIVE COUNSEL...SENTENCING Upon Court's inquiry, Deft. stated he received a copy of the Guilty Plea Agreement, State's Notice to File Habitual Criminal treatment, and spoke with Mr. Gutierrez. Mr. Gutierrez advised he was prepared to go forward with sentencing. Statement by Deft. Court noted it reviewed the prior record, it appeared the Court previously denied the fareta canvas. COURT FINDS, appointed counsel was not deficient, therefore, ORDERED, motion DENIED. Arguments by counsel and statement by Deft. COURT FURTHER ORDERED, parties to submit video by the end of day for the Court to review; matter CONTINUED for decision. CUSTODY 1/27/21 11:00 AM - SENTENCING;

# INMATE REQUEST FORM

1.) INMATE NAME <u>Anthony Longstreet, SR. 1242017</u>	DOC # <u>0B-09</u>	2.) HOUSING UNIT <u>0B-09</u>	3.) DATE <u>8/04/2021</u>
---	-----------------------	----------------------------------	------------------------------

4.) REQUEST FORM TO: (CHECK BOX)

<input type="checkbox"/> CASEWORKER	<input type="checkbox"/> MEDICAL	<input checked="" type="checkbox"/> MENTAL HEALTH	<input type="checkbox"/> CANTEEN
<input type="checkbox"/> EDUCATION	<input type="checkbox"/> VISITING	<input checked="" type="checkbox"/> LAW LIBRARY	<input type="checkbox"/> <del>LEGAL</del> LAW LIBRARY
<input type="checkbox"/> LAUNDRY	<input type="checkbox"/> PROPERTY ROOM	<input type="checkbox"/> SHIFT COMMAND	<input type="checkbox"/> OTHER

AUG 05 2021

5.) NAME OF INDIVIDUAL TO CONTACT: To, Law Library Personnel

6.) REQUEST: (PRINT BELOW) PLEASE give me Four (4) copies  
of the Attached NINE (9) Page Motion For Recusal.  
BRASS slip enclosed.

BRASS slip No. 2566130

7.) INMATE SIGNATURE Anthony D. Longstreet, SR DOC # 1242017

8.) RECEIVING STAFF SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## 9.) RESPONSE TO INMATE

Request for legal copy work must be accompanied by a DOC-3064 "Legal Copy Work Request" form. DOC-3064 attached.

Brass Slip must be complete, refer to AR 285 Inmate Fiscal Procedures for Inmate Banking. See AR 258.14 Transfer of Inmate Funds; 2, states in part, for "deductions...and payments, the inmate shall prepare an Inmate Account Transaction Request form [brass slip (DOC-509)] for each deduction from the inmate's individual account(s)...". 5. A., states, "An inmate initiates a brass slip by completing it in its entirety including: date; dollar amount; payee or purpose; signature; inmate name; ID number; and institution." 5. C., states, "The inmate shall submit the brass slip to authorized staff who will verify the inmates identity."

Brass slip you submitted is incomplete lacking authorized signature of staff. ALSO MUST HAVE -  
"LEGAL COPIES" IN THE OTHER BOX - SEE ATTACHED EXAMPLE.

Return to inmate to fix and re-submit.

Inmate Signature as Receipt.

10.) RESPONDING STAFF SIGNATURE \_\_\_\_\_ Date: \_\_\_\_\_ DATE \_\_\_\_\_

S. Rose, Law Library Supervisor

8/06/2021

8/6/21

# INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Anthony Longstreet, SR.	1242017	0B-09	8/04/2021

4.) REQUEST FORM TO: (CHECK BOX)

\_\_\_ CASEWORKER    \_\_\_ MEDICAL    ☒ LAW LIBRARY    \_\_\_ CANTEN

\_\_\_ EDUCATION    \_\_\_ VISITING    \_\_\_ SHIFT COMMAND    **AUG 05 2021**

\_\_\_ LAUNDRY    \_\_\_ PROPERTY ROOM    \_\_\_ OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: To. Law Library Personnel

6.) REQUEST: (PRINT BELOW) PLEASE give me Four (4) copies  
of the Attached NINE (9) Page Motion For Recusal.  
BRASS slip Enclosed.

BRASS slip No. 2566130

7.) INMATE SIGNATURE Anthony D. Longstreet, SR. DOC # 1242017

8.) RECEIVING STAFF SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## 9.) RESPONSE TO INMATE

Request for legal copy work must be accompanied by a DOC-3064 "Legal Copy Work Request" form. DOC-3064 attached.

~~Brass Slip must be complete, refer to AR 285 Inmate Fiscal Procedures for Inmate Banking. See AR 258.14 Transfer of Inmate Funds; 2, states in part, for "deductions...and payments, the inmate shall prepare an Inmate Account Transaction Request form [brass slip (DOC-509)] for each deduction from the inmate's individual account(s)..." 5. A., states, "An inmate initiates a brass slip by completing it in its entirety including: date; dollar amount; payee or purpose; signature; inmate name; ID number; and institution." 5. C., states, "The inmate shall submit the brass slip to authorized staff who will verify the inmates identity.~~

~~Brass slip you submitted is incomplete lacking authorized signature of staff. ALSO MUST HAVE - "LEGAL COPIES" IN THE OTHER COPY - SEE ATTACHED EXAMPLE.~~

Return to inmate to fix and re-submit.

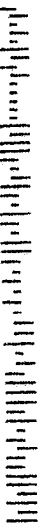
10.) RESPONSE SIGNATURE \_\_\_\_\_ Date: \_\_\_\_\_ DATE \_\_\_\_\_

S. Rose, Law Library/Supervisor

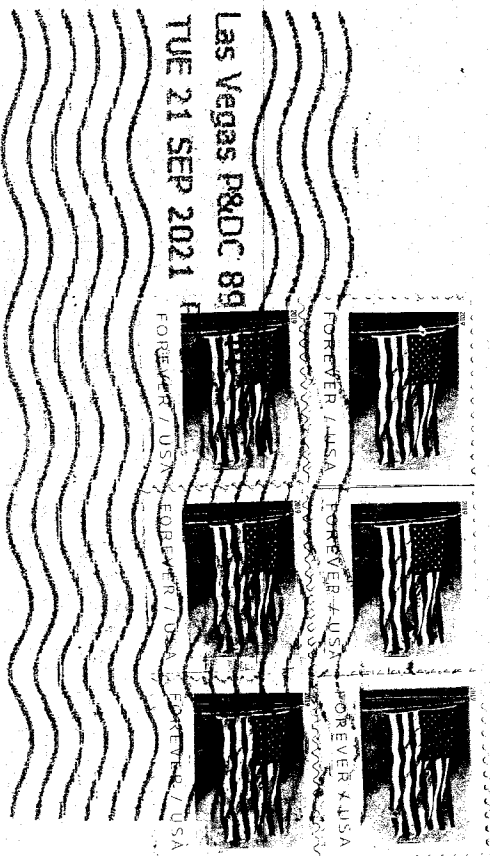
8/06/2021

8/6/21

DOC - 3012 (REV. 7/01)



Anthony Longstreet, SR. # 1x42017  
Elko State Prison  
P.O. Box 1981  
Elko, Nevada 89301



To: Steven Grierson

Clerk of Court  
Eighth Judicial District Court  
200 Lewis Avenue / 3rd Floor  
Las Vegas, Nevada 89155

(Legal Mail)

ELY STATE PRISON  
SEP 20 2021

**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
35 - 38  
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U.S. MAIL**

*Heather A. Smith*  
CLERK OF THE COURT

OPWH  
~~PPOW~~

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Anthony Longstreet,

Petitioner,

vs.

State of Nevada; Ely State Prison; Warden  
William Gittere,

Respondent,

Case No: A-21-841927-W  
Department 9

**ORDER FOR PETITION FOR  
WRIT OF HABEAS CORPUS**

Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on September 30, 2021. The Court has reviewed the Petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

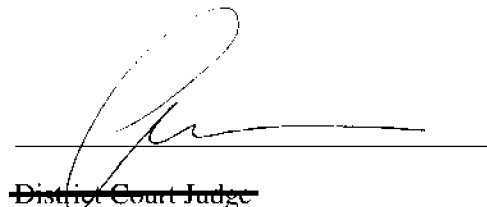
**IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

**IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's

Calendar on the 8th day of December, 2021, at the hour of

11:00 o'clock for further proceedings.

Dated this 1st day of October, 2021

  
~~District Court Judge~~ EC

84B 84A 0016 ADD8  
Cristina D. Silva  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W  
7 vs. | DEPT. NO. Department 9  
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.

13  
14 If indicated below, a copy of the above mentioned filings were also served by mail  
15 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 10/4/2021

16 Anthony Longstreet #1242017  
17 ELY  
18 P.O. Box 1989  
19 Ely, NV, 89301  
20  
21  
22  
23  
24  
25  
26  
27  
28



**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
41 - 42  
WILL FOLLOW VIA  
U.S. MAIL**



RSPN  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
KAREN MISHLER  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

ANTHONY LONGSTREET,  
#6028264  
  
Defendant.

CASE NO: A-21-841927-W

DEPT NO: IX

**STATE'S RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS  
CORPUS (POST-CONVICTION)**

DATE OF HEARING: DECEMBER 8, 2021

TIME OF HEARING: 11:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Motion for Appointment of Attorney, and Request for an Evidentiary Hearing.

This response is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

//

//

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On April 16, 2020, Petitioner Anthony Longstreet ("Petitioner") was charged by way  
4 of Amended Criminal Complaint with the following: Count 1 - Battery With Substantial  
5 Bodily Harm, Victim 60 Years of Age or Older (Category C Felony - NRS 200.481, 193.167);  
6 Count 2 - Attempt Robbery (Category B Felony - NRS 200.380, 193.330); and Count 3 -  
7 Burglary (Category B Felony - NRS 205.060). On April 30, 2020, the State filed an  
8 Information charging Petitioner with one count of Battery With Substantial Bodily Harm  
9 (Category C Felony - NRS 200.481). On September 3, 2020, the State filed a Notice of Intent  
10 to Seek Punishment as a Habitual Criminal.

11 On November 30, 2020, a signed Guilty Plea Agreement was filed in open court. On  
12 December 1, 2020, Petitioner pled guilty to the single count of Battery With Substantial Bodily  
13 Harm alleged in the Information.

14 On January 27, 2021, the Court sentenced Petitioner to a term of nineteen (19) to forty-  
15 eight (48) months in the Nevada Department of Corrections. Petitioner received three hundred  
16 and thirty-four (334) days credit for time served. On February 7, 2021, the Judgment of  
17 Conviction was filed. No direct appeal was taken.

18 On September 30, 2021, Petitioner filed the instant Petition for Writ of Habeas Corpus  
19 (Post-Conviction) ("Petition"). The State responds as follows.

20 **STATEMENT OF THE FACTS**

21 The Presentence Investigation Report ("PSI") states the facts as follows:

22  
23 On December 6, 2019, officers responded to a call at a Dotty's  
24 referencing a battery. On scene, officers made contact with the victim who was  
25 lying motionless on the floor with several lacerations to his face, blood  
26 emanating from his nose and mouth, and significant swelling around his right  
27 eye. The victim was transported to the hospital for his injuries.

28 Officers made contact with the bartender who advised the suspect, later  
identified as the defendant Anthony Odell Longstreet, entered the establishment

1 and seemed agitated as he was flailing his arms as he paced back and forth in  
2 front of the main bar. The defendant ordered chicken wings from the bartender  
3 and a few moments later the victim approached the counter where Mr.  
4 Longstreet was standing, ordered and paid for a pack of cigarettes, and began a  
5 conversation with the defendant.

6 The bartender informed Mr. Longstreet his chicken wings were ready and  
7 the total cost for the food. The defendant again became agitated and demanded  
8 the victim pay for his wings. When the victim refused to pay for his food, Mr.  
9 Longstreet began punching the victim in the head. After several punches to the  
10 head, the victim collapsed face down onto the floor. The defendant continued to  
11 punch and kick the victim in the head while he laid motionless on the floor.  
12 Several patrons and security attempted to convince Mr. Longstreet to stop what  
13 he was doing; however, this seemed to only enrage him further. The bartender  
14 called police and the defendant left the establishment.

15 Officers reviewed video surveillance footage of the incident which  
16 showed the defendant getting into an argument with the victim. Mr. Longstreet  
17 then seems to follow the victim around before becoming irate, yelling, pointing  
18 his fingers, and waving his arms around. Mr. Longstreet is then seen punching  
19 the victim in the face multiple times, knocking him to the ground. Mr. Longstreet  
20 then jumped on the victim and punched him in the face several more times before  
21 kicking the victim in the face. The defendant began to walk away and then turned  
22 around, walked back to the victim, and kicked him several more times in the face  
23 before walking out of the business and entering a light-colored vehicle.

24 Detectives were able to locate and identify Mr. Longstreet through his  
25 Department of Motor Vehicle (DMV) photo and prior booking photos. On  
26 March 1, 2020, the defendant was arrested on unrelated charges. On March 2,  
27 2020, during an interview with detectives, Mr. Longstreet, who was incarcerated  
28

1 on unrelated charges, advised the victim had used the defendant's money to buy  
2 cigarettes. Mr. Longstreet advised he "snapped" and attacked the victim.

3 The victim suffered multiple fractures to his face, soft tissue damage to  
4 his face and severe swelling.

5  
6 PSI, filed December 30, 2020, at 6.

## 7 **ARGUMENT**

### 8 **I. PETITIONER RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL**

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

15 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove he  
16 was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of  
17 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
18 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
19 representation fell below an objective standard of reasonableness, and second, that but for  
20 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
21 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison  
22 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).  
23 "[T]here is no reason for a court deciding an ineffective assistance claim to approach the  
24 inquiry in the same order or even to address both components of the inquiry if the defendant  
25 makes an insufficient showing on one." Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.  
26 Further, counsel cannot be ineffective for failing to make futile objections or arguments. See  
27 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).

1 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
2 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of  
3 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
4 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must  
5 be supported with specific factual allegations, which if true, would entitle the petitioner to  
6 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

7 To establish a claim of ineffective assistance of counsel for advice regarding a guilty plea,  
8 a defendant must show “gross error on the part of counsel.” Turner v. Calderon, 281 F.3d 851,  
9 880 (9th Cir. 2002). When a conviction is the result of a guilty plea, a defendant must show  
10 that there is a “reasonable probability that, but for counsel’s errors, he would not have pleaded  
11 guilty and would have insisted on going to trial.” Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct.  
12 366, 370 (1985) (emphasis added); see also Kirksey v. State, 112 Nev. 980, 988, 923 P.2d  
13 1102, 1107 (1996); Molina v. State, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (2004). “A  
14 reasonable probability is a probability sufficient to undermine confidence in the outcome.”  
15 McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing Strickland, 466  
16 U.S. at 687-89, 694, 104 S. Ct. at 2064–65, 2068). Ultimately, while it is counsel’s duty to  
17 candidly advise a defendant regarding a plea offer, the decision of whether or not to accept a  
18 plea offer is the defendant’s. Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 163 (2002).<sup>1</sup>

19 Petitioner’s claim that had counsel shown the surveillance video at sentencing he likely  
20 would have received a lesser sentence is belied by the record. Hargrove, 100 Nev. at 503, 686  
21 P.2d at 225. The court minutes from January 27, 2021, indicate that this Court reviewed a  
22 portion of the surveillance video prior to imposing sentence. Petitioner also claims that at  
23 sentencing his counsel should have presented a mitigation defense that he was intoxicated or  
24 unconscious when he committed the offense. To be effective, the constitution “does not require  
25 that counsel do what is impossible or unethical. If there is no bona fide defense to the charge,  
26

27 <sup>1</sup>Within Petitioner’s Statement of Facts, Petitioner claims: “the District Attorney Office negotiated a Plea Agreement by  
28 inducement through entrapment.” Petitioner’s Petition, at 8, line 12. Petitioner fails to mention this claim again in his  
petition or allege any other facts in support of this allegation. As the Petitioner fails to assert any facts in support of this  
claim of entrapment, the court should dismiss this as it is a bare assertion. Hargrove v. State, 100 Nev. 498, 502, 686  
P.2d 222, 225 (1984).

1 counsel cannot create one and may disserve the interests of his client by attempting a useless  
2 charade.” United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).  
3 Petitioner ignores the fact that his counsel could not have raised a defense at sentencing, as  
4 Petitioner’s guilt was no longer in dispute.

5 When Petitioner agreed to and signed his GPA prior to his sentencing hearing, he admitted  
6 “[t]he facts which support all the elements of the offense”. GPA, filed November 30, 2020 at  
7 2. Additionally, NRS 194.010 does not provide an exception to imprisonment, as petitioner  
8 claims. It’s not a mitigation statute; it excuses individuals from criminal liability under certain  
9 circumstances. Petitioner entered a plea of guilty, so his criminal liability was already  
10 established, rendering NRS 194.010 inapplicable.

11 Even if this weren’t the case, the subsections of NRS 194.010 that he cites (5 and 6) do not  
12 apply to him as first, (5) can only be used as a defense to a specific intent crime; he pleaded  
13 guilty to battery resulting in substantial bodily harm, which is a general intent crime. Byars v.  
14 State, 130 Nev. 848, 863, 336 P.3d 939, 949 (2014). Second, (6) does not apply because  
15 petitioner was not unconscious when he committed the crime. To the extent he seems to  
16 indicate that counsel should have raised a voluntary intoxication defense, this defense is only  
17 applicable to specific intent crimes. NRS 193.220. Battery is a general intent crime.

18 Lastly, Petitioner has failed to meet both prongs of the Strickland standard. 466 U.S. at  
19 687-88, 694, 104 S. Ct. at 2065, 2068. First, Petitioner has failed to assert how counsel’s  
20 representation fell below an objective standard of reasonableness. Petitioner fails to argue how  
21 counsel was per se deficient by not raising an argument based on NRS 194.010. Second,  
22 Petitioner fails to explain how raising such an argument would have resulted in a different  
23 outcome. Had Petitioner’s counsel raised the arguments Petitioner mentions, these arguments  
24 would have failed. Raising a defense during a sentencing argument would have been futile,  
25 and counsel cannot be ineffective for failing to make futile arguments. Ennis v. State, 122 Nev.  
26 694, 706, 137 P.3d 1095, 1103 (2006). As Petitioner has failed to show how his counsel’s  
27 representation fell below an objective standard of reasonableness or how raising an argument  
28 based on NRS 194.010 during his sentencing hearing would have changed the outcome in

1 anyway, Petitioner's argument fails both prongs of the Strickland standard. Therefore,  
2 Petitioner's claim of ineffective counsel fails as first, Petitioner had admitted the facts  
3 supporting the offense in his GPA. Second, as the law Petitioner relies on does not provide an  
4 exception to imprisonment thus, Petitioner fails to provide a bona fide argument Petitioner's  
5 counsel could have made at sentencing.

## 6 **II. PETITIONER'S REMAINING CLAIMS ARE MERITLESS OR CANNOT** 7 **BE CONSIDERED ON HABEAS**

8 Grounds 2, 3, and 4 are not cognizable on habeas review due to petitioner's guilty plea.  
9 NRS 34.810(1)(a) states that a defendant who pled guilty can only raise habeas claims that his  
10 plea was not voluntarily entered or entered without the effective assistance of counsel. Thus,  
11 Petitioner's claims that he should not have been sentenced to imprisonment under NRS  
12 194.010, that EDCR 3.70 denied him access to the court, and that the Nevada Department of  
13 Corrections has interfered with his access to the law library and ability to file documents, must  
14 be summarily denied.

15 Petitioner's remaining claims are meritless or cannot be considered on habeas. Even if  
16 these claims were not barred from consideration under NRS 34.810(1)(a), petitioner would not  
17 be entitled to post-conviction relief on these claims for the following reasons:

### 18 **A. Ground 2: Petitioner Argues Involuntary Intoxication Under NRS 194.010**

19 As discussed above, NRS 194.010 does not prohibit a defendant from being sentenced to  
20 prison and does not apply to petitioner because he chose to enter a guilty plea rather than  
21 contest his guilt at trial.

### 22 **B. Ground 3: Petitioner Argues Rule 3.70 Violates the Constitution**

23 Petitioner claims that EDCR 3.70, the rule preventing the Justice Court from accepting  
24 documents personally submitted by a defendant that is represented by counsel, violates due  
25 process. This court lacks the authority to invalidate this rule as Petitioner requests, because  
26 these rules are approved by the Nevada Supreme Court, and a District Court cannot overrule  
27 the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Additionally, Petitioner fails to  
28 demonstrate that EDCR 3.70 denied him his constitutional rights. Criminal defendants



1 represented by counsel typically may not file pro se motions. United States v. Gallardo, 915  
2 F.Supp. 216, 218 n. 1 (D.Nev.1995); Carter v. State, 713 So.2d 1103, 1104  
3 (Fla.Dist.Ct.App.1998). The rule is “an aspect of the doctrine that an accused can proceed by  
4 counsel or pro se but not in both capacities at the same time.” People v. Neal, 675 N.E.2d  
5 130, 131 (Ill.App.Ct.1996); State v. Muse, 637 S.W.2d 468, 470 (Tenn.Crim.App.1982). As  
6 Petitioner fails to demonstrate how his constitutional rights have been denied under EDCR  
7 3.70, and this court does not have authority to invalidate this rule, Petitioner’s claim should  
8 be dismissed.

#### 9 **C. Ground 4: Challenge to Petitioner’s Conditions of Confinement**

10 Petitioner’s challenge to his conditions of confinement may not be raised in a petition for  
11 writ of habeas corpus. The Nevada Supreme Court has repeatedly held that a petition for writ  
12 of habeas corpus may only challenge the validity of a conviction or sentence, not the conditions  
13 of confinement. Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); Director v.  
14 Arndt, 98 Nev. 84, 86, 640 P.2d 1318, 1319 (1982). See also NRS 34.724(1). Thus, Petitioner’s  
15 Ground 4 claims must be dismissed along with his other claims.

16 Finally, the State notes that Petitioner requests relief from this Court that it cannot grant.  
17 Specifically, Petitioner requests this Court modify his sentence to credit for time served and  
18 invalidate EDCR 3.70. Petition, at 16. A post-conviction petition for writ of habeas corpus  
19 may only be used to request “relief from the conviction or sentence or to challenge the  
20 computation of time that the person has served.” NRS 34.724(1). To obtain sentence  
21 modification, Petitioner must file a motion to modify sentence that demonstrates that his  
22 sentence was based on a materially untrue assumption or mistake of fact about his criminal  
23 record that has worked to his extreme detriment of the defendant. Edwards v. State, 112 Nev.  
24 704,707, 918 P.2d 321, 324 (1996). As for invalidating EDCR 3.70, this Court lacks the  
25 authority to do so, nor is this type of relief contemplated by Chapter 34 of the NRS.

26 //

27 //

28 //

1 **CONCLUSION**

2 Based on the foregoing, the State respectfully requests Petitioner's Petition for Writ of  
3 Habeas Corpus (Post-Conviction) be DENIED.

4 DATED this 4<sup>th</sup> day of November, 2021.

5 Respectfully submitted,

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

9 BY /s/ Karen Mishler  
10 KAREN MISHLER  
11 Chief Deputy District Attorney  
12 Nevada Bar #013730

13 **CERTIFICATE OF MAILING**

14 I hereby certify that service of the above and foregoing was made this 4<sup>th</sup> day of  
15 November, 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

16 ANTHONY LONGSTREET #1242017  
17 ELY STATE PRISON  
18 PO BOX 1989  
19 ELY, NEVADA, 89301

20 BY /s/ Corelle Bellamy  
21 CORELLE BELLAMY  
22 Secretary for the District Attorney's Office  
23  
24  
25  
26  
27

28 KM/et/Appeals

Anthony Odell Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

**FILED**

JAN - 6 2022

*Elizabeth A. Brown*  
CLERK OF COURT

The Eighth Judicial District Court  
Clark County, Nevada

Anthony O. Longstreet, SR.  
Plaintiff/Petitioner

vs.

A-21-841927-W  
CASE NUMBER

State of Nevada And Warden  
of Ely State Prison  
Respondent/Defendant

Notice of Appeal

Now come Petitioner, Anthony O. Longstreet, SR., In Propria Personam giving Notice of Appeal from the ORDERED ENTERED on December 08, 2021 denying Petition For Writ of HABEAS CORPUS.

1) Petitioner: Anthony O. Longstreet, SR. #1242017 PRO-SE  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

2) Respondent: Ely State Prison Warden  
P.O. Box 1989  
Ely, Nevada 89301

A-21-841927-W  
NOAS  
Notice of Appeal  
4980654

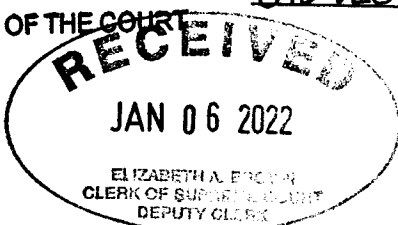


KAREN Mishler #013730  
Chief Deputy District Attorney  
Clark County District Attorney Off.  
P.O. Box 552212  
LAS VEGAS, Nevada 89155-2212

Attorney For Respondent

RECEIVED  
APPEALS  
JAN 31 2022

CLERK OF THE COURT



Pg. 1 of 4

3) DATE HABEAS CORPUS POST-CONVICTION PETITION WAS FILED: September 30, 2021

4) ISSUES PRESENTED IN HABEAS CORPUS POST-CONVICTION PETITION:

ISSUE(S) 1) WAS PETITIONER LONGSTREET DENIED EFFECTIVE ASSISTANCE OF COUNSEL AT SENTENCING WHEN COUNSEL ARGUED FOR IMPRISONMENT WHEN EVIDENCE SHOW THAT PETITIONER MADE A MISTAKE AND ACCUSED THE VICTIM OF TAKING HIS MONEY OFF THE COUNTER.

2) DO NRS 194.010 (5) AND (6) MANDATE IMPRISONMENT AS PUNISHMENT WHEN AN ACCUSE MAKE A MISTAKE FROM A DELUSION AND AS A RESULT COMMIT A CRIMINAL OFFENSE WITHOUT CONSCIOUSLY THINKING DUE TO BEING UNDER THE INFLUENCE OF ALCOHOL?

3) IS RULE 3.70 USED TO IMPEDE AND ABRIDGE ACCESS TO THE COURT IN VIOLATION OF THE 14<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION WHEN A DEFENDANT ATTEMPT TO FILE A MOTION OR PETITION IN PROPRIA PERSONA IN AN EFFORT TO PRESENT EVIDENCE IN HIS DEFENSE PURSUANT TO TITLE 42 U.S.C. § 1981(A) ???

4) IS NEVADA DEPARTMENT OF CORRECTIONS PRISON PERSONNELS USING ADMINISTRATIVE RULE 285(5)(A) AND (5)(C) TO IMPEDE AND ABRIDGE ACCESS TO THE LAW LIBRARY AND THE COURTS IN VIOLATION OF THE 14<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION WHEN A INMATE ATTEMPT TO MAKE LEGAL COPIES OF DOCUMENTS OR/AND TO USE THE MAIL PROCEDURES TO SEND OUT LEGAL MAIL TO THE COURTS, ATTORNIES, AND PUBLIC AND LAW ENFORCEMENT OFFICIALS??

4.) STATE FILED A REPLY TO PETITIONER POST-CONVICTION HABEAS CORPUS ON NOVEMBER 04, 2021.

5.) PETITIONER ATTEMPTED TO FILE A REPLY PURSUANT TO NRCP, RULE 27(4) AND DEPUTY CLERK ISSUED A RULE 3.70 LETTER TO PETITIONER AND REFUSED TO FILE PETITIONER REPLY AND ROUTED PETITIONER REPLY AND APPENDIX TO THE CLARK COUNTY PUBLIC DEFENDERS OFFICE DECEMBER 07, 2021 AND PREVENTED THE DISTRICT COURT JUDGE CRISTINA D. SILVA FROM REVIEWING PETITIONER REPLY, DECEMBER 08, 2021. THERE IS NO ATTORNEY APPOINTED ON THIS CASE!!

6) On December 08, 2021 the Petitioner WAS NOT ALLOWED to APPEAR AT his HEARING by "Closed-Circuit Television" And the Judge MADE A UN-FAVORABLE Ruling on the HABEAS CORPUS When she denied the Petition And An Evidentiary HEARING.

7) APPEAL is taken From the Ruling MADE on December 08, 2021, to NEVADA COURT OF APPEALS FOR FURTHER REVIEW.

Respectfully Submitted

Anthony O. Longstreet, Sr.  
Petitioner/Appellant



Received 12/13/2021.  
DAY before HEARING,  
HEARING date is 12/8/2021.

**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

December 07, 2021

**Attorney:** Public Defender  
Clark County Public Defender  
Attn: Shannon Phenix  
309 S 3rd Street Suite #2  
Las Vegas NV 89101  
(702) 455-4685  
**Defendant:** Anthony Odell Longstreet

**Case Number:** C-20-348182-1  
**Department:** Department 9

A-21-841927-W

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: 1) Notice Of Filing 2) Petitioner's Written Objection To The States Response

...

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 27

Deputy Clerk of the Court

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**December 08, 2021**

---

A-21-841927-W      Anthony Longstreet, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**December 08, 2021      11:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Silva, Cristina D.

**COURTROOM:** RJC Courtroom 11B

**COURT CLERK:** Sharyne Suehiro

**RECORDER:** Gina Villani

**PARTIES**

**PRESENT:**      Schifalacqua, Barbara      Attorney for State

**JOURNAL ENTRIES**

- Defendant not present and in custody in the Nevada Department of Corrections; Deputy Attorney General Jaimie Stilz present.

COURT STATED the Defendant makes a number of allegations in his Post-Conviction filing, as he claims to receive ineffective assistance of counsel, and argues substantive defenses such as involuntary intoxication, and further argues local rule EDCR 3.70. COURT STATED with regards to the ineffective assistance of counsel claim, for the reasons set forth in the State's Opposition, FINDS the Defendant did receive effective assistance of counsel, and ORDERED, Petition DENIED IN PART. COURT STATED with regards to the involuntary intoxication and the argument of the local rule, FINDS those are not cognitive allegations and cannot be subject to habeas review, and ORDERED, Petition DENIED. COURT FURTHER STATED the Petitioner is challenging the conditions of their confinement, and this is not the proper mechanism to challenge the conditions of confinement in terms of a traditional habeas. COURT ADVISED if the Defendant wishes to challenge the conditions of his confinement, it must be done through a separate filing and done where the Defendant is currently confined. COURT ORDERED, Petition DENIED, the Court is incorporating the grounds pointed out by the State with regards to their order. Ms. Stilz informed the Court they wanted to make a record regarding the subpoena the Defendant filed, it was not properly filed, not properly served on the Attorney General's Office, adding the AG office is not a party in this case, and

PRINT DATE: 12/10/2021

Page 1 of 2

Minutes Date: December 08, 2021

they will not be responding to the subpoena. COURT SO NOTED, adding since the Petition was denied today the subpoena is MOOT. COURT DIRECTED Defendant to file the proper mechanism to seeking post-conviction relief, and if he is not entitled to post-conviction relief, the Defendant would need to seek leave of the Court in order to seek additional information, which was no done before filing the subpoena or the summons.

NDC

CLERK'S NOTE: A copy of this Minute Order has been mailed to: Anthony Longstreet #1242017, PO BOX 1989, Ely Nevada 89301; This Minute Order was prepared by listening to the JAVs recording. (12-10-2021 ks).



## Certificate of Service by Mail

Pursuant to NRCP, Rule 5(b)(1), I, Anthony O. Longstreet, SR, the Petitioner  
And Appellant, hereby certify that I mailed a copy of the Attached  
Notice of Appeal to the Following below on December 26 2021 by  
Putting a copy in the Mailbox At Ely State Prison:

Chief Deputy Karen Mishler  
Clark County District Attorney Office  
P.O. Box 552212  
LAS VEGAS, NEVADA 89155-2212

To. Elizabeth A. Brown  
Supreme Court of Nevada  
201 S. Carson Street/suite 201  
CARSON CITY, NEVADA 89701-4702

Respectfully Submitted

Anthony O. Longstreet, SR.  
PRO SE Appellant

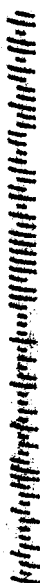
Anthony O. Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

Anthony O. Longstreet, SR. #1242017  
ELY State Prison  
P.O. Box 1989  
ELY, Nevada 89301

(LEGAL MAIL)

To, Elizabeth A. Brown  
Supreme Court of Nevada  
201 S. Carson Street  
Carson City, Nevada 89701-4202  
(Suite 201)

8970134791 0003



ELY STATE PRISON  
JAN 03 2022

FOREVER / USA

FOREVER / US

Anthony Odell Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

**FILED**

JAN - 6 2022

*Sharon A. Gorman*  
CLERK OF COURT

THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

Anthony O. Longstreet, SR.  
Plaintiff/Petitioner

v.

A-21-841927-W  
CASE Number

STATE OF NEVADA AND WARDEN  
OF Ely State Prison  
Respondent/Defendant

Motion To Prepare Records For Appellate Court

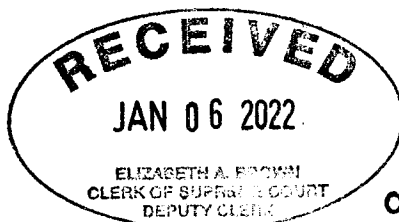
Now come Petitioner, Anthony O. Longstreet, SR., Moving the CLERK of COURT to PREPARE the RECORDS FOR APPEAL to NEVADA COURT OF APPEALS. And in support of this REQUEST Petitioner states AS FOLLOWS:

- 1) Petition FOR HABEAS CORPUS Filed on September 30, 2021
- 2) Minute order issued on October 01, 2021
- 3) State Filed A Reply November 04, 2021
- 4) Rule 3.70 letter issued to Petitioner dated December 07, 2021
- 5) Minute order issued on December 08, 2021 Denying Relief.

Petitioner/Appellant REQUEST that these common LAW RECORDS be PREPARED FOR NEVADA COURT OF APPEALS. And that Petitioner be PROVIDED A TRUE COPY of the RECORD SUMMARY and the PAGE NUMBERS to the RECORDS.

December 26, 2021  
Date

Respectfully Submitted  
Anthony O. Longstreet, SR.  
PRO-SE Appellant



RECEIVED  
APPEALS  
JAN 31 2022

CLERK OF THE COURT

A-21-841927-W  
MOT  
Motion  
4980656



*Heather A. Hume*  
CLERK OF THE COURT

OSCC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\* \* \* \*

ANTHONY LONGSTREET,  
PLAINTIFF(S)  
VS.  
STATE OF NEVADA, DEFENDANT(S)

CASE NO.: A-21-841927-W

DEPARTMENT 9

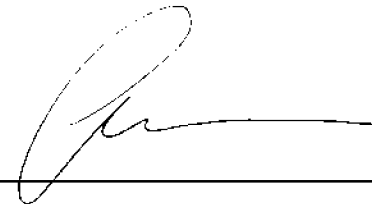
**CIVIL ORDER TO STATISTICALLY CLOSE CASE**

Upon review of this matter and good cause appearing,  
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to  
statistically close this case for the following reason:

**DISPOSITIONS:**

- ☐ Default Judgment
- ☐ Judgment on Arbitration
- ☐ Stipulated Judgment
- ☒ Summary Judgment
- ☐ Involuntary Dismissal
- ☐ Motion to Dismiss by Defendant(s)
- ☐ Stipulated Dismissal
- ☐ Voluntary Dismissal
- ☐ Transferred (before trial)
- ☐ Non-Jury – Disposed After Trial Starts
- ☐ Non-Jury – Judgment Reached
- ☐ Jury – Disposed After Trial Starts
- ☐ Jury – Verdict Reached
- ☐ Other Manner of Disposition

Dated this 10th day of January, 2022



449 917 5F4F 803E  
Cristina D. Silva  
District Court Judge

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Anthony Longstreet  
#1242017  
ELY  
P.O. Box 1989  
Ely, NV 89301

Steven B Wolfson  
Clark County District Attorney  
200 Lewis Avenue, 3rd Floor  
Las Vegas, NV 89155

Jaye Beltran  
Judicial Executive Assistant

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W  
7 vs. | DEPT. NO. Department 9  
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.

13  
14 If indicated below, a copy of the above mentioned filings were also served by mail  
15 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 1/11/2022

16 Anthony Longstreet #1242017  
17 ELY  
18 P.O. Box 1989  
Ely, NV, 89301

19 Steven Wolfson Clark County District Attorney  
20 200 Lewis Avenue, 3rd Floor  
Las Vegas, NV, 89155



ASTA

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

ANTHONY ODELL LONGSTREET, SR.,

Plaintiff(s),

vs.

STATE OF NEVADA; ELY STATE PRISON  
WARDEN WILLIAM GITTERE,

Defendant(s),

Case No: A-21-841927-W

Dept No: IX

**CASE APPEAL STATEMENT**

1. Appellant(s): Anthony O. Longstreet, Sr.

2. Judge: Cristina D. Silva

3. Appellant(s): Anthony O. Longstreet, Sr.

Counsel:

Anthony O. Longstreet, Sr. #1242017  
P.O. Box 1989  
Ely, NV 89301

4. Respondent (s): State of Nevada; Ely State Prison Warden William Gittere

Counsel:

Steven B. Wolfson, District Attorney  
200 Lewis Ave.

Las Vegas, NV 89155-2212

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

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

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

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

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, October 05, 2021  
*\*\*Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: N/A  
Date Application(s) filed: N/A

9. Date Commenced in District Court: September 30, 2021

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

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

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 31 day of January 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Anthony O. Longstreet, Sr.



*Heather Shinn*  
CLERK OF THE COURT

Anthony Odell Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

The Eighth Judicial District Court  
Clark County, Nevada

Anthony O. Longstreet, SR.  
Plaintiff/Petitioner

Vs.

A-21-841927-W  
CASE NUMBER

State of Nevada And Warden  
of Ely State Prison  
Respondent/Defendant

Notice of Appeal

Now come Petitioner, Anthony O. Longstreet, SR., In PROPRIA PERSONA giving Notice of Appeal From the ORDERED ENTERED on December 08, 2021 denying Petition For WRIT of HABEAS CORPUS.

1) Petitioner: Anthony O. Longstreet, SR. #1242017 PRO-SE  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

2) Respondent: Ely State Prison Warden  
P.O. Box 1989  
Ely, Nevada 89301

Karen Mishler #013730 Attorney For Respondent  
Chief Deputy District Attorney  
Clark County District Attorney Off.  
P.O. Box 552212  
LAS VEGAS, NEVADA 89155-2212

RECEIVED

JAN 10 2021

CLERK OF THE COURT

3) DATE HABEAS CORPUS POST-CONVICTION PETITION WAS FILED: September 30, 2021

4) ISSUES PRESENTED IN HABEAS CORPUS POST-CONVICTION PETITION:

ISSUE(S) 1) WAS PETITIONER LONGSTREET DENIED EFFECTIVE ASSISTANCE OF COUNSEL AT SENTENCING WHEN COUNSEL ARGUED FOR IMPRISONMENT WHEN EVIDENCE SHOW THAT PETITIONER MADE A MISTAKE AND ACCUSED THE VICTIM OF TAKING HIS MONEY OFF THE COUNTER.

2) DO NRS 194.010 (5) AND (6) MANDATE IMPRISONMENT AS PUNISHMENT WHEN AN ACCUSE MAKE A MISTAKE FROM A DELUSION AND AS A RESULT COMMIT A CRIMINAL OFFENSE WITHOUT CONSCIOUSLY THINKING DUE TO BEING UNDER THE INFLUENCE OF ALCOHOL?

3) IS RULE 3.70 USED TO IMPEDE AND ABRIDGE ACCESS TO THE COURT IN VIOLATION OF THE 14<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION WHEN A DEFENDANT ATTEMPT TO FILE A MOTION OR PETITION IN PROPRIA PERSONA IN AN EFFORT TO PRESENT EVIDENCE IN HIS DEFENSE PURSUANT TO TITLE 42 U.S.C. § 1981(A) ???

4) IS NEVADA DEPARTMENT OF CORRECTIONS PRISON PERSONNELS USING ADMINISTRATIVE RULE 285(5)(A) AND (5)(C) TO IMPEDE AND ABRIDGE ACCESS TO THE LAW LIBRARY AND THE COURTS IN VIOLATION OF THE 14<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION WHEN A INMATE ATTEMPT TO MAKE LEGAL COPIES OF DOCUMENTS OR/AND TO USE THE MAIL PROCEDURES TO SEND OUT LEGAL MAIL TO THE COURTS, ATTORNEYS, AND PUBLIC AND LAW ENFORCEMENT OFFICIALS??

4) STATE FILED A REPLY TO PETITIONER POST-CONVICTION HABEAS CORPUS ON NOVEMBER 04, 2021.

5) PETITIONER ATTEMPTED TO FILE A REPLY PURSUANT TO NRCP, RULE 27(4) AND DEPUTY CLERK ISSUED A RULE 3.70 LETTER TO PETITIONER AND REFUSED TO FILE PETITIONER REPLY AND ROUTED PETITIONER REPLY AND APPENDIX TO THE CLARK COUNTY PUBLIC DEFENDERS OFFICE DECEMBER 07, 2021 AND PREVENTED THE DISTRICT COURT JUDGE CRISTINA D. SILVA FROM REVIEWING PETITIONER REPLY, DECEMBER 08, 2021. "THERE IS NO ATTORNEY APPOINTED ON THIS CASE!!"

6) On December 08, 2021 the Petitioner WAS NOT ALLOWED to APPEAR AT his HEARING by "Closed-Circuit Television" And the Judge MADE A un-FAVORABLE Ruling on the HABEAS CORPUS when she denied the Petition And An Evidentiary HEARING.

7) APPEAL is taken From the Ruling MADE on December 08, 2021, to NEVADA COURT OF APPEALS FOR FURTHER REVIEW.

Respectfully Submitted

Anthony D. Longstreet, SR.  
Petitioner/Appellant



Received 12/13/2021.  
Day before HEARING  
HEARING date is 12/8/2021.

**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

December 07, 2021

**Attorney:** Public Defender  
Clark County Public Defender  
Attn: Shannon Phenix  
309 S 3rd Street Suite #2  
Las Vegas NV 89101  
(702) 455-4685  
**Defendant:** Anthony Odell Longstreet

**Case Number:** A-21-841927-W  
C-20-348182-1  
**Department:** Department 9

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: 1) Notice Of Filing 2) Petitioner's Written Objection To The States Response

...

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Cordially yours,  
DC Criminal Desk # 27  
Deputy Clerk of the Court

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**December 08, 2021**

---

A-21-841927-W      Anthony Longstreet, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**December 08, 2021      11:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Silva, Cristina D.

**COURTROOM:** RJC Courtroom 11B

**COURT CLERK:** Sharyne Suehiro

**RECORDER:** Gina Villani

**PARTIES**

**PRESENT:**      Schifalacqua, Barbara      Attorney for State

**JOURNAL ENTRIES**

- Defendant not present and in custody in the Nevada Department of Corrections; Deputy Attorney General Jaimie Stilz present.

COURT STATED the Defendant makes a number of allegations in his Post-Conviction filing, as he claims to receive ineffective assistance of counsel, and argues substantive defenses such as involuntary intoxication, and further argues local rule EDCR 3.70. COURT STATED with regards to the ineffective assistance of counsel claim, for the reasons set forth in the State's Opposition, FINDS the Defendant did received effective assistance of counsel, and ORDERED, Petition DENIED IN PART. COURT STATED with regards to the involuntary intoxication and the argument of the local rule, FINDS those are not cognitive allegations and cannot be subject to habeas review, and ORDERED, Petition DENIED. COURT FURTHER STATED the Petitioner is challenging the conditions of their confinement, and this is not the proper mechanism to challenge the conditions of confinement in terms of a traditional habeas. COURT ADVISED if the Defendant wishes to challenge the conditions of his confinement, it must be done through a separate filing and done where the Defendant is currently confined. COURT ORDERED, Petition DENIED, the Court is incorporating the grounds pointed out by the State with regards to their order. Ms. Stilz informed the Court they wanted to make a record regarding the subpoena the Defendant filed, it was not properly filed, not properly served on the Attorney General's Office, adding the AG office is not a party in this case, and

PRINT DATE: 12/10/2021

Page 1 of 2

Minutes Date: December 08, 2021

they will not be responding to the subpoena. COURT SO NOTED, adding since the Petition was denied today the subpoena is MOOT. COURT DIRECTED Defendant to file the proper mechanism to seeking post-conviction relief, and if he is not entitled to post-conviction relief, the Defendant would need to seek leave of the Court in order to seek additional information, which was no done before filing the subpoena or the summons.

NDC

CLERK'S NOTE: A copy of this Minute Order has been mailed to: Anthony Longstreet #1242017, PO BOX 1989, Ely Nevada 89301; This Minute Order was prepared by listening to the JAVs recording. (12-10-2021 ks).

## Certificate of Service by Mail

Pursuant to NRCP, Rule 5(b)(1), I, Anthony O. Longstreet, SR., the Petitioner  
And Appellant, hereby certify that I mailed a copy of the Attached  
Notice of Appeal to the Following below on December 26, 2021 by  
Putting a copy in the Mailbox At Ely State Prison.

Chief Deputy Karen Mishler

Clark County District Attorney Office

P.O. Box 552212

LAS VEGAS, NEVADA 89155-2212

To: Elizabeth A. Brown

Supreme Court of Nevada

201 S. Carson Street / Suite 201

CARSON CITY, NEVADA 89701-4702

Respectfully Submitted

Anthony O. Longstreet, SR.  
PRO SE Appellant

Anthony O. Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

Anthony Odell Longstreet, SR. #1242017  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

Electronically Filed  
02/01/2022

Heaven S. Linn  
CLERK OF THE COURT

THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

Anthony O. Longstreet, SR.  
Plaintiff/Petitioner

V.

A-21-841927-W  
CASE Number

STATE OF NEVADA AND WARDEN  
OF ELY STATE PRISON  
Respondent/Defendant

MOTION TO PREPARE RECORDS FOR APPELLATE COURT

Now come Petitioner, Anthony O. Longstreet, SR., Moving the CLERK OF COURT to PREPARE the RECORDS FOR APPEAL to NEVADA COURT OF APPEALS. And in support of this REQUEST Petitioner states AS FOLLOWS:

- 1.) Petition FOR HABEAS CORPUS Filed on September 30, 2021
- 2.) Minute order issued on October 01, 2021
- 3.) State Filed A Reply November 04, 2021
- 4.) Rule 3.70 letter issued to Petitioner dated December 07, 2021
- 5.) Minute order issued on December 08, 2021 Denying Relief.

Petitioner/Appellant Request that these common LAW RECORDS be PREPARED FOR NEVADA COURT OF APPEALS. And that Petitioner be PROVIDED A TRUE COPY of the RECORD SUMMARY And the PAGE NUMBERS to the RECORDS.

December 26, 2021  
Date

Respectfully Submitted  
Anthony O. Longstreet, SR.  
PRO-SE Appellant

RECEIVED

JAN 10 2022

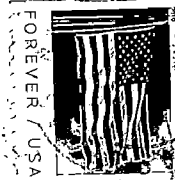
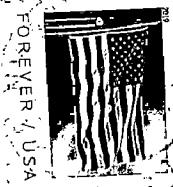
CLERK OF THE COURT 73



ELY STATE PRISON  
JAN 03 2022

Anthony O. Longstreet, Sr. #1A4A017  
ELY STATE PRISON  
P.O. Box 1989  
ELY, Nevada 89301

To: Steven D. Grierson  
CLERK OF THE COURT  
200 LEWIS AVENUE/3rd Floor  
LAS VEGAS, NEVADA 89155



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RECEIVED

JAN 10 2022

CLERK OF THE COURT

LEWIS  
MAIL

8910155300/0075



1 ASTA

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

10 ANTHONY ODELL LONGSTREET, SR.,

11 Plaintiff(s),

12 vs.

13 STATE OF NEVADA; ELY STATE PRISON  
14 WARDEN WILLIAM GITTERE,

15 Defendant(s),  
16

Case No: A-21-841927-W

Dept No: IX

17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Anthony O. Longstreet, Sr.

20 2. Judge: Cristina D. Silva

21 3. Appellant(s): Anthony O. Longstreet, Sr.

22 Counsel:

23 Anthony O. Longstreet, Sr. #1242017  
24 P.O. Box 1989  
25 Ely, NV 89301

26 4. Respondent (s): State of Nevada; Ely State Prison Warden William Gittere

27 Counsel:

28 Steven B. Wolfson, District Attorney  
200 Lewis Ave.

Las Vegas, NV 89155-2212

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

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

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

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

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, October 05, 2021  
*\*\*Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: N/A  
Date Application(s) filed: N/A

9. Date Commenced in District Court: September 30, 2021

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

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

11. Previous Appeal: Yes

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 2 day of February 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Anthony O. Longstreet, Sr.

*Heather L. Smith*  
CLERK OF THE COURT

**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**KAREN MISHLER**  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**ANTHONY LONGSTREET,**  
~~**THE STATE OF NEVADA,**~~

Plaintiff,

-vs-

~~**ANTHONY LONGSTREET,**~~  
~~**#6028264 THE STATE OF NEVADA, ET AL.**~~

Defendant.

CASE NO: A-21-841927-W /  
C-20-348182-1  
DEPT NO: IX

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

DATE OF HEARING: DECEMBER 8, 2021  
TIME OF HEARING: 11:00 AM

THIS CAUSE having come on for hearing before the Honorable SILVA, District Judge, on the 8th day of December, 2021, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through BARBARA SCHIFALACQUA, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT, CONCLUSIONS OF LAW**

**PROCEDURAL HISTORY**

On April 16, 2020, Petitioner Anthony Longstreet ("Petitioner") was charged by way of Amended Criminal Complaint with the following: Count 1 - Battery With Substantial

1 Bodily Harm, Victim 60 Years of Age or Older (Category C Felony - NRS 200.481, 193.167);  
2 Count 2 - Attempt Robbery (Category B Felony - NRS 200.380, 193.330); and Count 3 -  
3 Burglary (Category B Felony - NRS 205.060). On April 30, 2020, the State filed an  
4 Information charging Petitioner with one count of Battery With Substantial Bodily Harm  
5 (Category C Felony – NRS 200.481). On September 3, 2020, the State filed a Notice of Intent  
6 to Seek Punishment as a Habitual Criminal.

7 On November 30, 2020, a signed Guilty Plea Agreement was filed in open court. On  
8 December 1, 2020, Petitioner pled guilty to the single count of Battery With Substantial Bodily  
9 Harm alleged in the Information.

10 On January 27, 2021, Petitioner was sentenced to a term of nineteen (19) to forty-eight  
11 (48) months in the Nevada Department of Corrections. Petitioner received three hundred and  
12 thirty-four (334) days credit for time served. On February 7, 2021, the Judgment of Conviction  
13 was filed. No direct appeal was taken. On September 30, 2021, Petitioner filed the instant  
14 Petition for Writ of Habeas Corpus (Post-Conviction) (“Petition”).

15 On December 8, 2021, this matter came before this Court, at which time this Court  
16 heard arguments. The Court stated its Findings, Conclusions, and Order based on the written  
17 pleadings, as follows:

## 18 ANALYSIS

### 19 I. PETITIONER RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL

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3 Here, Petitioner's first ground, that had counsel shown the surveillance video at  
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11 have been futile, because Petitioner's guilt was no longer in dispute, and counsel cannot be  
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14 To be effective, the constitution "does not require that counsel do what is impossible or  
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20 When Petitioner agreed to and signed his GPA prior to his sentencing hearing, he  
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24 under certain circumstances. Petitioner entered a plea of guilty, so his criminal liability was  
25 already established, rendering NRS 194.010 inapplicable.

26 Lastly, Petitioner failed to meet both prongs of the Strickland standard. 466 U.S. at 687-  
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10 Therefore, Petitioner's claim of ineffective counsel is denied as Petitioner's first ground  
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13 Petitioner relies on does not provide an exception to imprisonment. Ultimately, Petitioner  
14 failed to provide a bona fide argument Petitioner's counsel could have made at sentencing.  
15 Therefore, this claim is denied.

16 **II. PETITIONER'S INVOLUNTARY INTOXICATION AND LOCAL RULE**  
17 **CLAIMS CANNOT BE CONSIDERED ON HABEAS AND FAIL TO**  
18 **CONTAIN ANY COGNITIVE ALLEGATIONS**

19 NRS 34.810(1)(a) states that a defendant who pled guilty can only raise habeas claims  
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21 Petitioner's claims that he should not have been sentenced to imprisonment under NRS  
22 194.010 due to involuntary intoxication and that EDCR 3.70 denied him access to the court  
23 are improperly brought on Habeas review. Thus, as both of these claims are improper under  
24 Habeas review, they are both denied.

25 **A. Petitioner's Involuntary Intoxication Claim Fails to Contain any Cognitive**  
26 **Allegations**

27 NRS 194.010 states in part:

28 5. Persons who committed the act or made the omission charged  
under an ignorance or mistake of fact, which disproves any

criminal intent, where a specific intent is required to constitute the offense.

6. Persons who committed the act charged without being conscious thereof.

Petitioner's involuntary intoxication argument under NRS 194.010(5) fails first, because Petitioner fails to allege that he was charged with a specific intent crime. Rather, Petitioner pled guilty to the general intent crime of battery resulting in substantial bodily harm. Byars v. State, 130 Nev. 848, 863, 336 P.3d 939, 949 (2014). Second, Petitioner's argument under NRS 194.010(6) fails because Petitioner fails to allege that he was unconscious when he committed the crime. Thus, because Petitioner fails to contain any cognitive allegations supporting his arguments under NRS NRS 194.010, these claims are denied.

#### **B. Petitioner's Local Rule EDCR 3.70 Claim Fails to Contain any Cognitive Allegations**

Criminal defendants represented by counsel typically may not file pro se motions. United States v. Gallardo, 915 F.Supp. 216, 218 n. 1 (D.Nev.1995); Carter v. State, 713 So.2d 1103, 1104 (Fla.Dist.Ct.App.1998). The rule is "an aspect of the doctrine that an accused can proceed by counsel or pro se but not in both capacities at the same time." People v. Neal, 675 N.E.2d 130, 131 (Ill.App.Ct.1996); State v. Muse, 637 S.W.2d 468, 470 (Tenn.Crim.App.1982). Petitioner failed to demonstrate that EDCR 3.70 denied him his constitutional rights, thus this claim is denied.

#### **III. PETITIONER'S CHALLENGE TO THE CONDITIONS OF CONFINEMENT CANNOT BE CONSIDERED ON HABEAS**

The Nevada Supreme Court has repeatedly held that a petition for writ of habeas corpus may only challenge the validity of a conviction or sentence, not the conditions of confinement. Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); Director v. Arndt, 98 Nev. 84, 86, 640 P.2d 1318, 1319 (1982). A post-conviction petition for writ of habeas corpus may only be used to request "relief from the conviction or sentence or to challenge the computation of time that the person has served." NRS 34.724(1). To obtain sentence modification, Petitioner must file a motion to modify sentence that demonstrates that his sentence was based on a materially untrue assumption or mistake of fact about his criminal record that has worked



1 to his extreme detriment of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321,  
2 324 (1996).

3 The Court declines to rule on Petitioner's claims that challenge the conditions of his  
4 confinement. Such claims must be done via a separate filing, not in a post-conviction petition  
5 for a writ of habeas corpus. See NRS 34.724(1); Bowen v. Warden of Nevada State Prison,  
6 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) ("a petition for writ of habeas corpus may  
7 challenge the validity of current confinement, but not the conditions thereof.").

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus  
10 (Post-Conviction) shall be, and it is, hereby denied.

Dated this 1st day of March, 2022

11 ~~DATED this \_\_\_\_ day of February, 2022.~~

12  
13 DISTRICT JUDGE

EC

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

77B 131 7D5D 378B  
David Barker  
District Court Judge

16 BY /s/KAREN MISHLER  
17 KAREN MISHLER  
18 Chief Deputy District Attorney  
Nevada Bar #013730

19  
20  
21 **CERTIFICATE OF SERVICE**

22 I certify that on the 28th day of February, 2022, I mailed a copy of the foregoing  
23 proposed Findings of Fact, Conclusions of Law, and Order to:

24 ANTHONY ODELL LONGSTREET SR 1242017  
25 P.O. BOX 1989, Ely Nevada 89301

26 BY   
27 Secretary for the District Attorney's Office

28 20FN0563X

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W  
7 vs. | DEPT. NO. Department 9  
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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NEFF

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ANTHONY LONGSTREET,

Petitioner,

vs.

STATE OF NEVADA; ET AL.,

Respondent,

Case No: A-21-841927-W

Dept No: IX

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

**PLEASE TAKE NOTICE** that on March 1, 2022, 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 thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on March 2, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 2 day of March 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

☒ The United States mail addressed as follows:

Anthony Longstreet # 1242017  
P.O. Box 1989  
Ely, NV 89301

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

*Heather L. Smith*  
CLERK OF THE COURT

**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**KAREN MISHLER**  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**ANTHONY LONGSTREET,**  
~~**THE STATE OF NEVADA,**~~

Plaintiff,

-vs-

~~**ANTHONY LONGSTREET,**~~  
~~**#6028264 THE STATE OF NEVADA, ET AL.**~~

Defendant.

CASE NO: A-21-841927-W /  
C-20-348182-1  
DEPT NO: IX

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

DATE OF HEARING: DECEMBER 8, 2021  
TIME OF HEARING: 11:00 AM

THIS CAUSE having come on for hearing before the Honorable SILVA, District Judge, on the 8th day of December, 2021, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through BARBARA SCHIFALACQUA, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT, CONCLUSIONS OF LAW**

**PROCEDURAL HISTORY**

On April 16, 2020, Petitioner Anthony Longstreet ("Petitioner") was charged by way of Amended Criminal Complaint with the following: Count 1 - Battery With Substantial

1 Bodily Harm, Victim 60 Years of Age or Older (Category C Felony - NRS 200.481, 193.167);  
2 Count 2 - Attempt Robbery (Category B Felony - NRS 200.380, 193.330); and Count 3 -  
3 Burglary (Category B Felony - NRS 205.060). On April 30, 2020, the State filed an  
4 Information charging Petitioner with one count of Battery With Substantial Bodily Harm  
5 (Category C Felony – NRS 200.481). On September 3, 2020, the State filed a Notice of Intent  
6 to Seek Punishment as a Habitual Criminal.

7 On November 30, 2020, a signed Guilty Plea Agreement was filed in open court. On  
8 December 1, 2020, Petitioner pled guilty to the single count of Battery With Substantial Bodily  
9 Harm alleged in the Information.

10 On January 27, 2021, Petitioner was sentenced to a term of nineteen (19) to forty-eight  
11 (48) months in the Nevada Department of Corrections. Petitioner received three hundred and  
12 thirty-four (334) days credit for time served. On February 7, 2021, the Judgment of Conviction  
13 was filed. No direct appeal was taken. On September 30, 2021, Petitioner filed the instant  
14 Petition for Writ of Habeas Corpus (Post-Conviction) (“Petition”).

15 On December 8, 2021, this matter came before this Court, at which time this Court  
16 heard arguments. The Court stated its Findings, Conclusions, and Order based on the written  
17 pleadings, as follows:

## 18 ANALYSIS

### 19 I. PETITIONER RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL

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7 challenge the validity of current confinement, but not the conditions thereof.").

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus  
10 (Post-Conviction) shall be, and it is, hereby denied.

Dated this 1st day of March, 2022

11 ~~DATED this \_\_\_\_ day of February, 2022.~~

12  
13 DISTRICT JUDGE

EC

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

77B 131 7D5D 378B  
David Barker  
District Court Judge

16 BY /s/KAREN MISHLER  
17 KAREN MISHLER  
18 Chief Deputy District Attorney  
Nevada Bar #013730

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24 ANTHONY ODELL LONGSTREET SR 1242017  
25 P.O. BOX 1989, Ely Nevada 89301

26 BY   
27 Secretary for the District Attorney's Office

28 20FN0563X

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 Anthony Longstreet, Plaintiff(s) | CASE NO: A-21-841927-W  
7 vs. | DEPT. NO. Department 9  
8 State of Nevada, Defendant(s)  
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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  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus****COURT MINUTES****December 08, 2021**

A-21-841927-W      Anthony Longstreet, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

**December 08, 2021      11:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Sharyne Suehiro**RECORDER:** Gina Villani**PARTIES**

**PRESENT:**      Schifalacqua, Barbara      Attorney for State

**JOURNAL ENTRIES**

- Defendant not present and in custody in the Nevada Department of Corrections; Deputy Attorney General Jaimie Stilz present.

COURT STATED the Defendant makes a number of allegations in his Post-Conviction filing, as he claims to receive ineffective assistance of counsel, and argues substantive defenses such as involuntary intoxication, and further argues local rule EDCR 3.70. COURT STATED with regards to the ineffective assistance of counsel claim, for the reasons set forth in the State's Opposition, FINDS the Defendant did receive effective assistance of counsel, and ORDERED, Petition DENIED IN PART. COURT STATED with regards to the involuntary intoxication and the argument of the local rule, FINDS those are not cognitive allegations and cannot be subject to habeas review, and ORDERED, Petition DENIED. COURT FURTHER STATED the Petitioner is challenging the conditions of their confinement, and this is not the proper mechanism to challenge the conditions of confinement in terms of a traditional habeas. COURT ADVISED if the Defendant wishes to challenge the conditions of his confinement, it must be done through a separate filing and done where the Defendant is currently confined. COURT ORDERED, Petition DENIED, the Court is incorporating the grounds pointed out by the State with regards to their order. Ms. Stilz informed the Court they wanted to make a record regarding the subpoena the Defendant filed, it was not properly filed, not properly served on the Attorney General's Office, adding the AG office is not a party in this case, and

PRINT DATE: 12/10/2021

Page 1 of 2

Minutes Date: December 08, 2021

they will not be responding to the subpoena. COURT SO NOTED, adding since the Petition was denied today the subpoena is MOOT. COURT DIRECTED Defendant to file the proper mechanism to seeking post-conviction relief, and if he is not entitled to post-conviction relief, the Defendant would need to seek leave of the Court in order to seek additional information, which was no done before filing the subpoena or the summons.

NDC

CLERK'S NOTE: A copy of this Minute Order has been mailed to: Anthony Longstreet #1242017, PO BOX 1989, Ely Nevada 89301; This Minute Order was prepared by listening to the JAVs recording. (12-10-2021 ks).

# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated March 3, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 93.

ANTHONY ODELL LONGSTREET, SR.,

Plaintiff(s),

vs.

STATE OF NEVADA; ELY STATE PRISON  
WARDEN WILLIAM GITTERE,

Defendant(s),

Case No: A-21-841927-W

Dept. No: IX

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 15 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk