

1 William Turner
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

Electronically Filed
Feb 09 2022 10:16 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

5 IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF Clark

7
8
9 William B. Turner
10 Plaintiff,
11 vs.
12 State of Nevada;
13 et. al
Defendant.

Case No. A-21-841302-W
Dept. No. 24
Docket _____

14
15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 William Turner, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the
21 Writ of Habeas Corpus (post-conviction)

22
23 ruled on the 17th day of December, 2021.

24
25 Dated this 26th day of January, 2022

26 Respectfully Submitted,

27 
28 William Turner #1225469

RECEIVED
FEB - 1 2022

CLERK OF THE COURT

William Turner #1825469
ISCC P.O. Box 208
Indian Springs, NV 89070

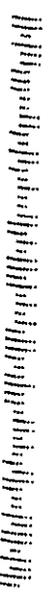
Steven Emerson (Clerk of the Court)
200 Lewis Ave. 3rd Fl.
Las Vegas, NV 89155

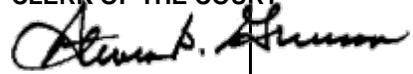
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Southern District
Correctional Center
JAN 28 2022
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7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 WILLIAM B. TURNER,

11 Plaintiff(s),

12 vs.

13 STATE OF NEVADA; NEVADA DEPT. OF
14 CORRECTIONS; WARDEN HUTCHINGS,

15 Defendant(s),

Case No: A-21-841302-W

Dept No: XXIV

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): William Turner

20 2. Judge: Erika Ballou

21 3. Appellant(s): William Turner

22 Counsel:

23 William Turner #1225469

24 P.O. Box 208

25 Indian Springs, NV89070

26 4. Respondent (s): State of Nevada; Nevada Dept. of Corrections; Warden Hutchings

27 Counsel:

28 Steven B. Wolfson, District Attorney

200 Lewis Ave.

1 Las Vegas, NV 89155-2212

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

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

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

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

8 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
9 **Expires 1 year from date filed

10 Appellant Filed Application to Proceed in Forma Pauperis: No
11 Date Application(s) filed: N/A

12 9. Date Commenced in District Court: September 20, 2021

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

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

15 11. Previous Appeal: No

16 Supreme Court Docket Number(s): N/A

17 12. Child Custody or Visitation: N/A

18 13. Possibility of Settlement: Unknown

19 Dated This 4 day of February 2022.

20 Steven D. Grierson, Clerk of the Court

21 /s/ Amanda Hampton

22 Amanda Hampton, Deputy Clerk

23 200 Lewis Ave

24 PO Box 551601

25 Las Vegas, Nevada 89155-1601

26 (702) 671-0512

27 cc: William Turner

Steven D. Grierson

William Turner, 1225469
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

William Turner,
Plaintiff,
vs.
State of Nevada,
Defendant.
et al.

CASE No. A-21-841302-W
DEPT.No. 24

DESIGNATION OF RECORD ON APPEAL

TO: Clerk of the Supreme
Court of Nevada
301 South Carson St
Carson City NV 89070

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 26th day of January, 2022.

RESPECTFULLY SUBMITTED BY:
WT
William Turner # 1225469
Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, William Turner, hereby certify, pursuant to NRCF 5(b), that on this 26th
day of January, 2022 I mailed a true and correct copy of the foregoing, "Notice of appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

~~Clerk of the Supreme
Court of Nevada
201 South Carson St,
Carson City, NV 89701~~

Steven Gerson
200 Lewis Ave 3rd fl
Las Vegas NV 89155

CC:FILE

DATED: this 26 day of January, 2022.

William Turner # 1225469
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of Appeal
(Title of Document)

filed in District Court Case number A-21-841302-LJ

Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

[Signature]
Signature

1/21/2022
Date

William Turner
Print Name

Petitioner
Title

CASE SUMMARY
CASE NO. A-21-841302-W

William Turner, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

§
§
§
§
§

Location: **Department 24**
 Judicial Officer: **Ballou, Erika**
 Filed on: **09/20/2021**
 Cross-Reference Case Number: **A841302**

CASE INFORMATION

Related Cases

C-19-344594-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Statistical Closures

12/19/2021 Motion to Dismiss by the Defendant(s)

Case Status: **12/19/2021 Dismissed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-21-841302-W
Court	Department 24
Date Assigned	09/20/2021
Judicial Officer	Ballou, Erika

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Turner, William B	Pro Se
Defendant	Nevada Department of Corrections Removed: 12/19/2021 Dismissed	Wolfson, Steven B <i>Retained</i> 702-455-5320(W)
	State of Nevada	Wolfson, Steven B <i>Retained</i> 702-455-5320(W)
	Warden Hatchings Removed: 12/19/2021 Dismissed	Wolfson, Steven B <i>Retained</i> 702-455-5320(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

- | | |
|------------|--|
| 09/20/2021 |  Inmate Filed - Petition for Writ of Habeas Corpus
Party: Plaintiff Turner, William B
[1] Post Conviction |
| 09/20/2021 |  Order for Petition for Writ of Habeas Corpus
[2] Order for Petition for Writ of Habeas Corpus |
| 10/20/2021 |  Motion
Filed By: Defendant State of Nevada; Defendant Nevada Department of Corrections; Defendant Warden Hatchings
[3] Motion for Reassignment Writ of Habeas Corpus, or, In The Alternative, to Dismiss |
| 10/21/2021 |  Response
Filed by: Defendant State of Nevada
[4] State's Response to Petition for Writ of Habeas Corpus (Post-Conviction) |

CASE SUMMARY
CASE NO. A-21-841302-W

12/07/2021



Motion

Filed By: Plaintiff Turner, William B
 [5] Motion for Enlargement of Time NRCP 6(b)

12/07/2021



Clerk's Notice of Hearing

[6] Notice of Hearing

12/19/2021



Order

[7] Order Dismissing Petition

12/20/2021



Notice of Entry of Order

Filed By: Defendant State of Nevada
 [8] Notice of Entry of Order

01/13/2022



Motion

Filed By: Plaintiff Turner, William B
 [9] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephonic or Video Conference

02/03/2022



Notice of Appeal

[10] Notice of Appeal

02/03/2022



Designation of Record on Appeal

[11] Designation of Record on Appeal

02/04/2022



Case Appeal Statement

Case Appeal Statement

DISPOSITIONS

12/19/2021

Order of Dismissal (Judicial Officer: Ballou, Erika)
 Debtors: William B Turner (Plaintiff)
 Creditors: State of Nevada (Defendant), Nevada Department of Corrections (Defendant), Warden Hatchings (Defendant)
 Judgment: 12/19/2021, Docketed: 12/20/2021

HEARINGS

11/19/2021



Minute Order (8:00 AM) (Judicial Officer: Ballou, Erika)

Minute Order - No Hearing Held;
 Journal Entry Details:

The Court having considered all papers and pleading and determining that no hearing is necessary hereby VACATED the hearing scheduled for November 23, 2021. Respondent s Motion to Dismiss is hereby GRANTED because although the Court finds that Covid-19 and lockdowns in NDOC provide good cause for Petitioner s untimely filing of this petition, Petitioner s claim falls outside of the scope of habeas relief. Petitioner s conviction was the result of a guilty plea and he has not alleged that the guilty plea was involuntarily entered or entered without the effective assistance of counsel. Instead, Petitioner claims that he is entitled to be sentenced as a Category C felony rather than a Category B felony because the statute changed at the time of his sentencing. NRS 193.130(1) provides that Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty Therefore, Petitioner is not entitled to be sentenced under the new statute as it was not in effect when his offense was committed. The Court previously explained this to Petitioner at his sentencing. Additionally, Petitioner also claims that his sentencing under the old statute is a lapse in his Due Process. However, this claim is incorrect as he was sentenced under the appropriate

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-21-841302-W

statute at the time his offense took place under NRS 193.130(1). Furthermore. Petitioner s claim that he is entitled to credit for time served while he awaiting sentencing in the instant case is also incorrect. Under NRS 176.055(2)(b), a defendant who is convicted of a subsequent offense while probation or parole from a Nevada conviction is not eligible for any credit on the sentence for the subsequent offense. Petitioner was on probation in case C-18-330150-1 when he committed the instant offense and therefore is not entitled to credit. Petitioner s petition is DISMISSED. The State is to prepare the order. CLERK'S NOTE: This Minute Order was electronically filed by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties for Odyssey File & Serve: Mailed to: William Turner #1225469, SDCC, P.O.Box 208, Indian Springs, NV, 89070.//rh11.19.21;

11/23/2021 **CANCELED Petition for Writ of Habeas Corpus** (9:00 AM) (Judicial Officer: Ballou, Erika)
Vacated

11/23/2021 **CANCELED Motion to Dismiss** (9:00 AM) (Judicial Officer: Ballou, Erika)
Vacated
Motion for Reassignment of Writ of Habeas Corpus, or, In The Alternative, to Dismiss

01/10/2022  **Motion** (8:30 AM) (Judicial Officer: Ballou, Erika)
Plaintiff's Motion to Enlargement of Time NRCP Rule 6(b)
Denied;
Journal Entry Details:
The Court noted no parties present; ORDERED, Plaintiff's Motion to Enlargement of Time NRCP Rule 6(B) DENIED as MOOT; DIRECTED Attorney Generals Office to prepare the order. CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, Ro Shell Hurtado, to all registered parties for Odyssey File & Serve.//rh;

DISTRICT COURT CIVIL COVER SHEET

A-21-841302-W
Dept. 24

County, Nevada

Case No. _____
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">William Turner Jr.</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">State of Nevada</p>
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy *(please select the one most applicable filing type below)*

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

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

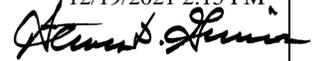
September 20, 2021

PREPARED BY CLERK

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **ODM**
2 **AARON D. FORD**
3 Attorney General
4 Chris Davis (Bar No. 6616)
5 Deputy Attorney General
6 State of Nevada
7 Office of the Attorney General
8 555 E. Washington Ave., Ste. 3900
9 Las Vegas, Nevada 89101-1068
10 (702) 498-3277 (phone)
11 (702) 486-2377 (fax)
12 cwdavis@ag.nv.gov
13 *Attorneys for Respondents*

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 WILLIAM B. TURNER,

11 Petitioner,

12 v.

13 STATE OF NEVADA, NEVADA
14 DEPARTMENT OF CORRECTIONS, and
15 WARDEN HUTCHINGS,

16 Respondents.

Case No. A-21-841302-W
Dept. No. XXIV

17 **ORDER DISMISSING PETITION**

18 Petitioner William B. Turner filed a Petition for Writ of Habeas Corpus, contending that: (1) he
19 is entitled to be sentenced as a Category C felony rather than a Category B felony because the statute
20 changed at the time of his sentencing; and (2) he is entitled to credit for time served while he was awaiting
21 sentencing. Having considered the papers and pleadings on file, Turner's Petition has no merit.

22 THE COURT FINDS that Turner is currently incarcerated at Three Lakes Valley Conservation
23 Camp, in Clark County, Nevada, and therefore this Court may properly exercise jurisdiction to adjudicate
24 Turner's time challenge.

25 THE COURT FURTHER FINDS that Turner is serving two concurrent sentences arising from
26 case numbers C-18-330150-1 and C-19-344594-1.

27 THE COURT FURTHER FINDS that in Case No. C-18-330150-1, Turner pled guilty to attempt
28 invasion of a home, in violation of NRS 205.067 and 199.330, a category C felony. The plea was heard

1 in Eighth Judicial District Court, Department No. 28, and the Court sentenced Turner to a term of 24 to
2 60 months in prison.

3 THE COURT FURTHER FINDS that Turner Petitioner was on probation in case C-18-330150-1
4 when he subsequently committed the offence of burglary.

5 THE COURT FURTHER FINDS that in Case No. C-19-344594-1, Turner pled guilty to burglary,
6 in violation of NRS 205.060, a category B felony. This plea was heard in Eighth Judicial District Court,
7 Department No. 23, and the Court sentenced Turner to a term of 24 to 60 months in prison, to run
8 currently with his sentence in Case No. C-18-330150-1.

9 THE COURT FURTHER FINDS that Turner’s Amended Judgment of Conviction for burglary
10 was entered on February 18, 2020. Turner’s Case No. C-19-344594-1, however, was subsequently
11 transferred to Department 24.

12 THE COURT FURTHER FINDS that the amendment to NRS 205.060, altering how burglary is
13 categorized as a felony, did not become effective until July 1, 2020. *See* 2019 Nev. Stat., ch. 633, §§ 55,
14 137(2), at 4425-26, 4488.

15 WHEREFORE THE COURT CONCLUDES that Turner was not entitled to be sentenced under
16 the amended NRS 205.060 as it was not in effect when his offense was committed. *See* NRS 193.130(1)
17 (“Except when a person is convicted of a category A felony, and except as otherwise provided by specific
18 statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of
19 imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in
20 force at the time of commission of the felony prescribed a different penalty”); *see also State v. Second*
21 *Judicial Dist. Court*, 124 Nev. 564, 569, 188 P.3d 1079, 1082 (2008) (noting the general rule that the
22 proper penalty for an offense is that in effect at the time the offense was committed unless the Legislature
23 expresses clear intent to apply a different statute retroactively).

24 THE COURT FURTHER CONCLUDES that Turner was not deprived of due process because
25 he was sentenced under the appropriate statute at the time his offense took place, as provided by NRS
26 193.130(1). *See State*, 124 Nev. at 569, 188 P.3d at 1082.

27 THE COURT FURTHER CONCLUDES that because Turner was on probation in case C-18-
28 330150-1 when he committed the offense of burglary, he is not entitled to credit for time served while

1 awaiting sentencing for the burglary offence in in Case No. C-19-344594-1. See NRS 176.055(2) (“A
2 defendant who is convicted of a subsequent offense which was committed while the defendant was . . .
3 on probation or parole from a Nevada conviction is not eligible for any credit on the sentence for the
4 subsequent offense”); *Gaines v. State*, 116 Nev. 359, 364, 998 P.2d 166, 169 (2000) (holding that the
5 “plain and unequivocal language of NRS 176.055(2)(b) prohibits a district court from crediting a parolee
6 or probationer for time served on a subsequent offense if such offense was committed while on probation
7 or parole”).

8 **THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED** that Turner’s
9 Petition is **DISMISSED**.

10 **IT IS SO ORDERED** this 17th day of December, 2021.

Dated this 19th day of December, 2021



11
12 _____
13 Honorable Erika Ballou
14 District Court Judge **69B C6A 828B C004**
Erika Ballou
District Court Judge

15 Respectfully Submitted by:

16 AARON D. FORD
17 Attorney General

18 By: /s/ Chris Davis
19 Chris Davis
Deputy Attorney General

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

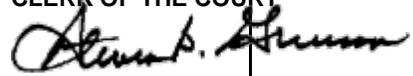
4
5
6 William Turner, Plaintiff(s) | CASE NO: A-21-841302-W
7 vs. | DEPT. NO. Department 24
8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/19/2021

15 Allison Herr aherr@ag.nv.gov
16 Marsha Landreth mlandreth@ag.nv.gov
17 Rikki Garate rgarate@ag.nv.gov
18 Cheryl Martinez cjmartinez@ag.nv.gov
19 D A motions@clarkcountyda.com
20 AG 1 rgarate@ag.nv.gov
21 AG 2 aherr@ag.nv.gov
22 AG AG wiznetfilings@ag.nv.gov
23 Deanna Allegra dallegra@ag.nv.gov
24
25
26
27
28



1 NEOJ

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

4
5 WILLIAM TURNER,

6 Petitioner,

Case No: A-21-841302-W

Dept. No: XXIV

7 vs.

8 STATE OF NEVADA; ET.AL.,

9 Respondent,

10 **NOTICE OF ENTRY OF ORDER**

11 **PLEASE TAKE NOTICE** that on December 19, 2021, the court entered a decision or order in this matter,
12 a true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
15 to you. This notice was mailed on December 20, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

18
19 CERTIFICATE OF E-SERVICE / MAILING

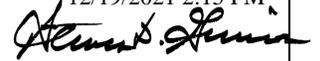
20 I hereby certify that on this 20 day of December 2021, I served a copy of this Notice of Entry on the
21 following:

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

24 The United States mail addressed as follows:
25 William Turner # 1225469
P.O. Box 208
26 Indian Springs, NV 89070

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk



CLERK OF THE COURT

1 **ODM**
2 **AARON D. FORD**
3 Attorney General
4 Chris Davis (Bar No. 6616)
5 Deputy Attorney General
6 State of Nevada
7 Office of the Attorney General
8 555 E. Washington Ave., Ste. 3900
9 Las Vegas, Nevada 89101-1068
10 (702) 498-3277 (phone)
11 (702) 486-2377 (fax)
12 cwdavis@ag.nv.gov
13 *Attorneys for Respondents*

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 WILLIAM B. TURNER,

11 Petitioner,

12 v.

13 STATE OF NEVADA, NEVADA
14 DEPARTMENT OF CORRECTIONS, and
15 WARDEN HUTCHINGS,

16 Respondents.

Case No. A-21-841302-W
Dept. No. XXIV

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19 is entitled to be sentenced as a Category C felony rather than a Category B felony because the statute
20 changed at the time of his sentencing; and (2) he is entitled to credit for time served while he was awaiting
21 sentencing. Having considered the papers and pleadings on file, Turner's Petition has no merit.

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23 Camp, in Clark County, Nevada, and therefore this Court may properly exercise jurisdiction to adjudicate
24 Turner's time challenge.

25 THE COURT FURTHER FINDS that Turner is serving two concurrent sentences arising from
26 case numbers C-18-330150-1 and C-19-344594-1.

27 THE COURT FURTHER FINDS that in Case No. C-18-330150-1, Turner pled guilty to attempt
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1 in Eighth Judicial District Court, Department No. 28, and the Court sentenced Turner to a term of 24 to
2 60 months in prison.

3 THE COURT FURTHER FINDS that Turner Petitioner was on probation in case C-18-330150-1
4 when he subsequently committed the offence of burglary.

5 THE COURT FURTHER FINDS that in Case No. C-19-344594-1, Turner pled guilty to burglary,
6 in violation of NRS 205.060, a category B felony. This plea was heard in Eighth Judicial District Court,
7 Department No. 23, and the Court sentenced Turner to a term of 24 to 60 months in prison, to run
8 currently with his sentence in Case No. C-18-330150-1.

9 THE COURT FURTHER FINDS that Turner’s Amended Judgment of Conviction for burglary
10 was entered on February 18, 2020. Turner’s Case No. C-19-344594-1, however, was subsequently
11 transferred to Department 24.

12 THE COURT FURTHER FINDS that the amendment to NRS 205.060, altering how burglary is
13 categorized as a felony, did not become effective until July 1, 2020. *See* 2019 Nev. Stat., ch. 633, §§ 55,
14 137(2), at 4425-26, 4488.

15 WHEREFORE THE COURT CONCLUDES that Turner was not entitled to be sentenced under
16 the amended NRS 205.060 as it was not in effect when his offense was committed. *See* NRS 193.130(1)
17 (“Except when a person is convicted of a category A felony, and except as otherwise provided by specific
18 statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of
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20 force at the time of commission of the felony prescribed a different penalty”); *see also State v. Second*
21 *Judicial Dist. Court*, 124 Nev. 564, 569, 188 P.3d 1079, 1082 (2008) (noting the general rule that the
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24 THE COURT FURTHER CONCLUDES that Turner was not deprived of due process because
25 he was sentenced under the appropriate statute at the time his offense took place, as provided by NRS
26 193.130(1). *See State*, 124 Nev. at 569, 188 P.3d at 1082.

27 THE COURT FURTHER CONCLUDES that because Turner was on probation in case C-18-
28 330150-1 when he committed the offense of burglary, he is not entitled to credit for time served while

1 awaiting sentencing for the burglary offence in in Case No. C-19-344594-1. See NRS 176.055(2) (“A
2 defendant who is convicted of a subsequent offense which was committed while the defendant was . . .
3 on probation or parole from a Nevada conviction is not eligible for any credit on the sentence for the
4 subsequent offense”); *Gaines v. State*, 116 Nev. 359, 364, 998 P.2d 166, 169 (2000) (holding that the
5 “plain and unequivocal language of NRS 176.055(2)(b) prohibits a district court from crediting a parolee
6 or probationer for time served on a subsequent offense if such offense was committed while on probation
7 or parole”).

8 **THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED** that Turner’s
9 Petition is **DISMISSED**.

10 **IT IS SO ORDERED** this 17th day of December, 2021.

Dated this 19th day of December, 2021



11
12 _____
13 Honorable Erika Ballou
14 District Court Judge **69B C6A 828B C004**
Erika Ballou
District Court Judge

15 Respectfully Submitted by:

16 AARON D. FORD
17 Attorney General

18 By: /s/ Chris Davis
19 Chris Davis
Deputy Attorney General

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 William Turner, Plaintiff(s) | CASE NO: A-21-841302-W
7 vs. | DEPT. NO. Department 24
8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/19/2021

15 Allison Herr aherr@ag.nv.gov
16 Marsha Landreth mlandreth@ag.nv.gov
17 Rikki Garate rgarate@ag.nv.gov
18 Cheryl Martinez cjmartinez@ag.nv.gov
19 D A motions@clarkcountyda.com
20 AG 1 rgarate@ag.nv.gov
21 AG 2 aherr@ag.nv.gov
22 AG AG wiznetfilings@ag.nv.gov
23 Deanna Allegra dallegra@ag.nv.gov
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28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 19, 2021

A-21-841302-W William Turner, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

November 19, 2021 8:00 AM Minute Order

HEARD BY: Ballou, Erika **COURTROOM:** Chambers

COURT CLERK:
Ro'Shell Hurtado

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court having considered all papers and pleading and determining that no hearing is necessary hereby VACATED the hearing scheduled for November 23, 2021. Respondent s Motion to Dismiss is hereby GRANTED because although the Court finds that Covid-19 and lockdowns in NDOC provide good cause for Petitioner s untimely filing of this petition, Petitioner s claim falls outside of the scope of habeas relief. Petitioner s conviction was the result of a guilty plea and he has not alleged that the guilty plea was involuntarily entered or entered without the effective assistance of counsel. Instead, Petitioner claims that he is entitled to be sentenced as a Category C felony rather than a Category B felony because the statute changed at the time of his sentencing. NRS 193.130(1) provides that Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty Therefore, Petitioner is not entitled to be sentenced under the new statute as it was not in effect when his offense was committed. The Court previously explained this to Petitioner at his sentencing.

Additionally, Petitioner also claims that his sentencing under the old statute is a lapse in his Due

Process. However, this claim is incorrect as he was sentenced under the appropriate statute at the time his offense took place under NRS 193.130(1). Furthermore, Petitioner's claim that he is entitled to credit for time served while he is awaiting sentencing in the instant case is also incorrect. Under NRS 176.055(2)(b), a defendant who is convicted of a subsequent offense while on probation or parole from a Nevada conviction is not eligible for any credit on the sentence for the subsequent offense. Petitioner was on probation in case C-18-330150-1 when he committed the instant offense and therefore is not entitled to credit. Petitioner's petition is DISMISSED. The State is to prepare the order.

CLERK'S NOTE: This Minute Order was electronically filed by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties for Odyssey File & Serve: Mailed to: William Turner #1225469, SDCC, P.O.Box 208, Indian Springs, NV, 89070.//rh11.19.21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 10, 2022

A-21-841302-W William Turner, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

January 10, 2022 8:30 AM Motion

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court noted no parties present; ORDERED, Plaintiff's Motion to Enlargement of Time NRCP Rule 6(B) DENIED as MOOT; DIRECTED Attorney Generals Office to prepare the order.

CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, Ro Shell Hurtado, to all registered parties for Odyssey File & Serve./ /rh

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DISMISSING PETITION; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

WILLIAM B. TURNER,

Plaintiff(s),

vs.

STATE OF NEVADA; NEVADA DEPT. OF
CORRECTIONS; WARDEN HUTCHINGS,

Defendant(s),

Case No: A-21-841302-W

Dept No: XIV

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 4 day of February 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

