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Electronically Filed
Jan 07 2022 04:28 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL L. COTA,

Appellant,

vs.

Case No. 2018-CR-00116
2018-CR-00116BD

THE STATE OF NEVADA,

Respondent,

_____ /

RECORD ON APPEAL

VOLUME 5

COPIES OF ORIGINAL PLEADINGS
PAGES 538-621

MICHAEL L. COTA
INMATE #1206075
ELY STATE PRISON
P.O. BOX 1989
ELY, NEVADA 89301

IN PROPER PERSON

THE STATE OF NEVADA

DOUGLAS COUNTY DISTRICT ATTORNEY

1
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Case No. 18-CR-00084, 18-CR-00116
Dept. No. 11

RECEIVED

AUG 09 2021

FILED

2021 AUG -9 AM 10:37

Douglas County
District Court Clerk

BODDIE R. WILLIAMS

CLERK

BY [Signature] DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA
Petitioner,

v.

Warden William GITTERE
Respondent.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you're not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.
- (6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: ELY STATE PRISON WHITE PINE

COUNTY

2. Name and location of court which entered the judgment of conviction under attack: DOUGLAS COUNTY DISTRICT COURT

3. Date of judgment of conviction: Sept 10, 2018

4. Case number: 18-CR-00084 18-CR-00116

5. (a) Length of sentence: 12mos - 72mos CONSECUTIVE
24 MONTHS TO 72 MONTHS

(b) If sentence is death, state any date upon which execution is scheduled: _____

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes _____ No X

If "yes", list crime, case number and sentence being served at this time: _____

7. Nature of offense involved in conviction being challenged: OFA FIREARM, BATTERY BY PRISONER (1) PRINCIPAL TO GRAND LARCENY

8. What was your plea? (check one):

(a) Not guilty _____ (b) Guilty X (c) Nolo contendere _____

9. If you entered a plea of guilty to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty was negotiated, give details: _____

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury _____ (b) Judge without a jury _____

11. Did you testify at the trial? Yes _____ No _____

12. Did you appeal from the judgment of conviction? Yes X No _____

13. If you did appeal, answer the following:

(a) Name of Court: NEVADA SUPREME COURT

(b) Case number or citation: # 77414-COA # 77415-COA

(c) Result: AFFIRMED

(d) Date of result: _____

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: _____

15. 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 _____ No X

16. If your answer to No. 15 was "yes", give the following information:

(a)(1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: _____

(2) Nature of proceeding: NA

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such a result: _____

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes _____ No _____

Citation or date of decision: _____

(2) Second petition, application or motion? Yes _____ No _____

Citation or date of decision: _____

(3) Third or subsequent petitions, applications or motions? Yes _____ No _____

Citation or date of decision: _____

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) _____

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: NA

(b) The proceedings in which these grounds were raised: _____

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) _____

18. If any of the grounds listed in No.'s 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) _____

19. Are you filing this petition more than one year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) N/A.

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes _____ No X
If yes, state what court and case number: _____

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: JOHN MALONE

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes _____ No X
If yes, specify where and when it is to be served, if you know: _____

23. State concisely every ground on which you claim that you are being held unlawfully. summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground One: VIOLATION OF DUE PROCESS OF LAW
NRS 624.030 specifically spells out Due Process.

Supporting FACTS (Tell your story briefly without citing cases or law.): NRS 624.030 STATES
"STATUTORY Procedures Are in Place FOR SEALING Juvenile Records
UNDER 21 YRS OF AGE" MR COTA WAS IN FACT ONLY 19 YEARS
OLD. NRS 624.030 (2) ADDITIONALLY STATES THAT Juvenile Records
MAY ONLY BE OPENED BY COURT ORDER MR COTA'S Juvenile Records
WERE USED AGAINST HIM WITH NO MOTION, HEARING OR COURT ORDER.
THIS RESULTED IN AN ILLEGAL SENTENCE.

(b) Ground Two: VIOLATION OF EQUAL PROTECTION

Supporting FACTS (Tell your story briefly without citing cases or law.): DO INCORPORATE
ALL FACTS IN GROUND ONE INTO GROUND TWO. NRS 624.030(2)
IS DESIGNED TO PROTECT JUVENILE COURT RECORDS. MR COTA'S
RECORDS WERE JUST TAKEN ILLEGALLY BY THE STATE ATTORNEY
HAD THE JUDGE USED THEM AGAINST MR COTA AT SENTENCING
THUS VIOLATING EQUAL PROTECTION.

(c) Ground Three: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(d) Ground Four: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

DECLARATION PURSUANT TO: N.R.S. 208.165

I, MICHAEL COTA, OF INMATE IDENTIFICATION
NUMBER: 1206075, AM A LAWFULLY
COMMITTED PRISONER OF THE NEVADA DEPARTMENT OF
CORRECTIONS, PRESENTLY IN THE LAWFUL CARE AND
CUSTODY OF ELY STATE PRISON, LOCATED AT: 12000 NORTH
BOTHWICK ROAD, (MAILING) P.O. BOX 1989, IN CITY OF: ELY,
COUNTY: WHITE PINE, STATE: NEVADA, 89301. DOES AFFIRM

THAT THE ATTACHED DOCUMENT
ENTITLED: PETITION FOR WRIT OF HABEAS CORPUS,
IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE &
BELIEF, AND ANY FALSE STATEMENT OF MATERIAL FACT
MADE THERE IN SHALL BE SUBJECTED TO THE PAINS AND
PENALTIES OF PERJURY PURSUANT TO: N.R.S. 208.165,
THIS, 4th, DAY OF: August, 2021.

INMATE SIGNATURE: M. Cota II

INMATE NAME (PRINTED):

MICHAEL COTA

ADDRESS: ELY STATE PRISON

P.O. BOX 1989, ELY, NEVADA 89301

AFFIRMATION PURSUANT TO NRS 239B.030

I, MICHAEL COTA, NDOC# 1206075,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED PETITION FOR WRIT OF
HABEAS CORPUS

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 4th DAY OF August, 2021.

SIGNATURE:

M. J. Cota II

INMATE PRINTED NAME: MICHAEL COTA

INMATE NDOC # 1206075

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

1 Case No. 2018-CR-00116B

2 Dept. No. II

RECEIVED

2021 AUG 12 AM 8:52

AUG 12 2021

Douglas County
District Court Clerk

BONNIE A. WILLIAMS
CLERK

Deputy

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 MICHAEL COTA,

10 Petitioner,

11 vs.

ORDER

12 WARDEN, Nevada Department of
13 Corrections,

14 Respondent.

15 Petitioner filed a *Petition for Writ of Habeas Corpus (Post-*
16 *Conviction)* on August 9, 2021. The Petition has not been served
17 on the Attorney General or the District Attorney. NRS 34.730.
18 Petitioner shall, no later than September 12, 2021, serve the
19 Attorney General and the District Attorney with conformed copies
20 of the *Petition* and file proof of service with the Court. Failure
21 to comply will result in dismissal of the *Petition*.

22 The State shall, within 45 days of service of the *Petition*,
23 respond to the *Petition* and file a return in accordance with the

24 ///

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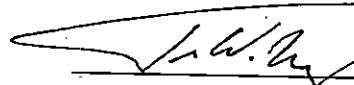
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1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12th day of August, 2021.

5
6 

7 THOMAS W. GREGORY
8 DISTRICT JUDGE
9

10 Copies served by mail/hand delivery on August 12th, 2021,
11 addressed to:

12 Michael Cota (Mail)

#1206075

13 Ely State Prison

14 P.O. Box 1989

Ely, Nevada 89301

15 Douglas County District Attorney's Office (Hand Delivery)

16 1038 Buckeye Road

17 Minden, Nevada 89423

18 Office of the Attorney General (Mail)

19 100 N. Carson Street

20 Carson City, Nevada 898701

21 
22 Erin C. Plante

RECEIVED

AUG 19 2021

Douglas County
District Court Clerk

FILED

2021 AUG 19 PM 12:03

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

9th JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

CASE NO.

NAME, STATE OF NEVADA

Defendant(s).

18-CR-0084

18-CR-0116/B

STATE TORT COMPLAINT

NOTICE OF COUNSEL

COMES NOW, MICHAEL COTA, in PRO PER and herein above respectfully

Moves this Honorable Court for a NOTICE OF COUNSEL

The above is made and based on the following Memorandum of Points and Authorities.

1 AS OF THE DATE OF THIS FILING LET THE RECORD
2 SHOW THAT ATTY. JOHN PARRIS OF LAS VEGAS IS
3 MY RETAINED COUNSEL AND CAN CONDUCT ALL
4 LEGAL BUSINESS AND REPRESENTATION IN BOTH
5 OF THE ABOVE REFERENCED CASES AS WELL AS
6 MY STATE TORTE COMPLAINT.
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24 Dated this 16th day of August, 2021
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By: W. L. L. L.

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, _____

NOTICE OF COUNSEL

Filed in case number: CR-18-0084 & CR-18-0116, STATE TORT COMPLAINT

☒ Document does not contain the social security number of any person

Or

☐ Document contains the social security number of a person as required by:

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 8/16/21

x MLCOTA
(Signature)

MICHAEL COTA
(Print Name)

Pro Se
(Attorney for)

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AUG 20 2021
Douglas County
District Court Clerk

9th Judicial District Court
Douglas County Nevada
BOBBIE R. WILLIAMS
CLERK
2021 AUG 20 AM 9:54
BY *[Signature]* DEPUTY

FILED

CASE NO.

18-CR-0084
18-CR-0161B

NOTICE OF COMPLIANCE

COMES NOW, *PLAINTIFF*, in PRO PER and herein above respectfully
Moves this Honorable Court for a *NOTICE OF COMPLIANCE TO*

THIS COURT'S ORDER FOR PROOF OF SERVICE ON
THE PETITION FOR WRIT OF HABEAS CORPUS
FILED IN THE ABOVE REFERENCED CASE

The above is made and based on the following Memorandum of Points and Authorities.

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein
and that on this 17th day of August, 2021, I mailed a true and correct copy of this
foregoing PETITION FOR WRIT OF HABEAS to the following:
CORPUS

DOUGLAS COUNTY DISTRICT ATTY.
1038 Buckeye RD
MINDEN, NV 89423

ATTORNEY GENERAL
100 N. CARSON ST.
CARSON CITY, NV 89701

BY: X M. McLean

RECEIVED

SEP 15 2021

Douglas County
District Court Clerk

FILED

2021 SEP 15 PM 2:37

DODDIE R. WILLIAMS
CLERK

BY *Wah* DEPUTY

Case No. 18-CR-00116B

Dept No. II

DA 18-1274M

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL LUIS COTA, JR.,

Petitioner,

v.

THE STATE OF NEVADA,

Respondents.

ANSWER TO PETITION FOR WRIT
OF HABEAS CORPUS (POST-
CONVICTION)

Respondents, by and through, the Douglas County District Attorney's Office, respond to Michael Luis Cota, Jr.'s, post-conviction petition for a writ of habeas corpus filed in the above-entitled matter. This response is based on the following memorandum of points and authorities, as well as all other pleadings, documents, and exhibits on file.

ARGUMENT

I. Standard of Review

"Any person convicted of a crime and under sentence of . . . imprisonment who claims that the conviction was obtained or that the sentence was imposed in violation of the Constitution of the United States or the Constitution or laws of this State, may . . . file a post-conviction petition for a writ of habeas corpus." NRS 34.724(1).

///

///

1 **A. The Petitioner's Petition is Untimely Filed and Must Be Dismissed.**

2 NRS 34.726(1) provides that where an appeal has been taken from a judgment of
3 conviction, a post-conviction petition for a writ of habeas corpus that challenges the judgment
4 of conviction must be filed with the district court "within 1 year after the supreme court issues
5 its remittitur." *Gonzales v. State*, 118 Nev. 590, 593, 53 P.3d 901, 902 (2002). "This language
6 is clear and unambiguous." *Id.* "In cases where the defendant has filed a timely direct appeal,
7 the one-year period for filing a post-conviction habeas petition commences to run from the date
8 that this court issues its remittitur." *Id.*

9 The Nevada Supreme Court issued its remittitur in this case on April 13, 2020, and
10 Petitioner failed to file his petition for a writ of habeas corpus before April 13, 2021.
11 Appellant's petition was therefore untimely filed and, accordingly, it is procedurally barred
12 absent a demonstration of cause for the delay and undue prejudice, *see* NRS 34.726(1), or a
13 showing that the procedural grounds should be excused to prevent a fundamental miscarriage
14 of justice, *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519 (2001), *abrogated on other*
15 *grounds by Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1094, 1097, n.12 (2018). Because
16 Petitioner made no attempt to overcome the procedural bar by making such a demonstration his
17 petition must be dismissed. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225,
18 231, 112 P.3d 1070, 1074 (2005) (explaining the application of procedural bars is mandatory).

19 **B. The Claims in Petitioner's Petition are Procedurally barred and the**
20 **claims must be dismissed.**

21 Nevada's procedural bars are mandatory. *See, e.g., Clem v. State*, 119 Nev. 615, 623 n.
22 43, 81 P.3d 521, 527 n.43 (2003). "Where the defendant has pleaded guilty, the only claims
23 that may be raised thereafter [in a habeas proceeding] are those involving the voluntariness of
24 the plea itself and the effectiveness of counsel." *Kirksey v. State*, 112 Nev. 980, 999, 923 P.2d
25 1102, 1114 (1996); NRS 34.810(1)(a); *see also Yohey v. Wickham*, 460 P.3d 993 (Nev. 2020)
26 (unpublished) (explaining that a due process claim of court error at sentencing fell outside the
27 scope of claims permissible in a post-conviction petition for a writ of habeas corpus
28 challenging a judgment of conviction based on a guilty plea). No such claims are raised by

1 petitioner and the petition must be dismissed. NRS 34.801(1)(a). Even if petitioner's
2 conviction was a result of a trial, claims in a petition that could have been, (1) "presented to the
3 trial court," or (2) "raised in a direct appeal" must be dismissed unless a petitioner
4 demonstrates good cause and actual prejudice." NRS 34.810(1)(b). Grounds 1 and 2 in the
5 petition could have been presented to the trial court and/or raised in a direct appeal. Petitioner
6 made no attempt to overcome the procedural bars by showing good cause and prejudice. *See*
7 *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005)
8 (explaining the application of procedural bars is mandatory). To the extent petitioner's claims
9 were previously raised on direct appeal, these claims are barred by the doctrine of law of the
10 case which "cannot be avoided by a more detailed and precisely focused argument." *Hall v.*
11 *State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

12 **C. Evidentiary Hearing**

13 This Court must determine whether an evidentiary hearing is required upon review of
14 the return, answer and all supporting documents which are filed. NRS 34.770(1). A petitioner
15 is only "entitled to a post-conviction evidentiary hearing when he asserts claims supported by
16 specific factual allegations not belied by the record that, if true, would entitle him to relief."
17 *Mann v. State*, 118 Nev. 351, 353, 46 P.3d 1228, 1229 (2002). If petitioner does not satisfy
18 that standard, this Court must dismiss the petition without an evidentiary hearing. NRS
19 34.770(2). Petitioner's allegations in grounds one and two are not supported by specific factual
20 allegations not belied by the record, that, if true, would entitle him to relief. Therefore, the
21 Court must dismiss the petition.

22 **D. Petitioner's claims lack merit.**

23 All of Petitioner's claims lack merit. No part of NRS 62H.030 makes Petitioner's
24 sentence illegal. A sentencing Court is not restricted from considering any reliable and
25 relevant evidence at the time of sentencing, NRS 176.015, and its exercise of discretion at
26 sentencing will not be reversed unless its decision is supported solely by impalpable and highly
27 suspect evidence. *Denson v. State*, Nev. 489, 492, 915 P.2d 284, 286 (1996). "Any court of
28 this State may inspect records that are sealed if the records relate to a person who is less than


1 21 years of age and who is to be sentenced by the court in a criminal proceeding.” NRS
2 62H.170(3). A district court violates a defendant's due process rights if it bases
3 its sentencing decision on “materially untrue assumptions concerning his criminal
4 record.” *State v. Eighth Judicial Dist. Court*, 100 Nev. 90, 96, 677 P.2d 1044, 1048 (1984).
5 That did not occur here. To establish a successful equal protection claim, the defendant
6 initially “has the burden of proving ‘the existence of purposeful discrimination’” against a class
7 of persons. *McCleskey v. Kemp*, 481 U.S. 279, 292 (1987) (quoting *Whitus v. Georgia*, 385
8 U.S. 545, 550 (1967)). Petitioner failed to meet his burden to demonstrate a violation of the
9 equal protection clause.

10 CONCLUSION

11 Petitioner’s claims are untimely, procedurally barred, and meritless. He is not entitled
12 to an evidentiary hearing and the petition must be dismissed.

13 DATED this 15 day of September, 2021.

14 MARK B. JACKSON
15 DISTRICT ATTORNEY

16 By: 
17 Matthew Johnson
18 Deputy District Attorney
19 1038 Buckeye Road
20 Minden, NV 89423
21 (775) 782-9800
22
23
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1 Case No. 18-CR-00116B

2 Dept No. II

3 DA 18-1274M

4 This document does not contain personal information of any person

5
6
7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF DOUGLAS
9

10 MICHAEL LUIS COTA, JR.,

11 Petitioner,

12 v.

**RETURN (Post-Conviction Petition for
Writ of Habeas Corpus)**

13 THE STATE OF NEVADA,

14 Respondents.
15

16
17 Whereas, a Petition for Writ of Habeas Corpus was filed on or about August 9, 2021, in
18 the Ninth Judicial District Court of the State of Nevada, in and for the County of Douglas,
19 return is hereby made and Respondent, State of Nevada, by and through the Douglas County
20 District Attorney's Office, states as follows:

- 21 1. Petitioner is in the custody of the Nevada Department of Corrections, by virtue of
22 Judgment of Conviction entered by the Ninth Judicial District Court of the State of
23 Nevada. A certified copy of the Judgment of Conviction is attached hereto and
24 incorporated herein by reference.
25 2. That said conviction was not obtained and said sentence was not imposed in
26 violation of the constitution of the United States or the constitution or laws of the
27 State of Nevada.
28

Douglas County District Attorney
1038 Buckeye Road
Minden, NV 89423
(775) 782-9800 Fax (775) 782-9807

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DATED this 15 day of September, 2021.

MARK B. JACKSON
DISTRICT ATTORNEY

By: 

Matthew Johnson
Deputy District Attorney
1038 Buckeye Road
Minden, NV 89423
(775) 782-9800

RECEIVED

JUL 25 2018

Douglas County
District Court Clerk

2018 JUL 25 AM 10:50

DOBBIE R. WILLIAMS
CLERK
BY ANOWA DEPUTY

Case No. 18-CR- 0116

Dept. No. II

DA Case No. 18-1274M

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

vs.

INFORMATION

MICHAEL LUIS COTA JR.,

Defendant.

Matthew Johnson, Deputy District Attorney, within and for the County of Douglas, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court that Michael Luis Cota Jr. has committed the crime of BATTERY BY A PRISONER IN CUSTODY, a violation of NRS 200.481(2)(f), a category B felony.

The defendant, on or about July 6, 2018, and before the filing of this Information, at and within the County of Douglas, State of Nevada,

did willfully and unlawfully, while a prisoner in the lawful custody or confinement of the Douglas County Sheriff's Office, use force or violence upon the person of another, to-wit: the defendant punched Douglas County Sheriff's Deputy Joshua Hodges in the face and hit Douglas County Sheriff's Deputy Michael Barden's hand, knocking an electroshock weapon out of his hand, all of which occurred in the Douglas County Jail in the County of Douglas, State of Nevada,

Douglas County District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800 Fax (775) 782-9807

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against the peace and dignity of the State of Nevada. Complainant prays the defendant be
dealt with according to law.



Matthew Johnson
Deputy District Attorney

1 The following are the names of such witnesses as are known to me at the time of filing
2 the within Information:

3
4 Deputy Jarrod Guilford Douglas County Sheriff's Office
5 1038 Buckeye Road
6 Minden, Nevada 89423

7 Sergeant Amy Savage Douglas County Sheriff's Office
8 1038 Buckeye Road
9 Minden, Nevada 89423

10 Deputy Mark W. Charles Douglas County Sheriff's Office
11 1038 Buckeye Road
12 Minden, Nevada 89423

13 Deputy Michael Barden Douglas County Sheriff's Office
14 1038 Buckeye Road
15 Minden, Nevada 89423

16 Deputy Joshua Hodges Douglas County Sheriff's Office
17 1038 Buckeye Road
18 Minden, Nevada 89423

19 Deputy Kylie Shepherd Douglas County Sheriff's Office
20 1038 Buckeye Road
21 Minden, Nevada 89423

22 Investigator Brandon Williamson Douglas County Sheriff's Office
23 1038 Buckeye Road
24 Minden, Nevada 89423

25 
26 Matthew Johnson
27 Deputy District Attorney
28

RECEIVED

AUG 01 2018

Douglas County
District Court Clerk

FILED

2018 AUG -1 PM 4:30

BOBBIE R. WILLIAMS
CLERK

BY ANONY DEPUTY

1 Case No. 18-CR- 0116

2 Dept. No. II

3 DA Case No. 18-1274M

4
5
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS
8

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

GUILTY PLEA AGREEMENT

12 MICHAEL LUIS COTA JR.,

13 Defendant.

14 I hereby agree to plead guilty to: BATTERY BY A PRISONER IN CUSTODY, a
15 violation of NRS 200.481(2)(f), a category B felony, as more fully alleged in the Information
16 which I have read and reviewed with my attorney.

17 My decision to plead guilty is based upon the plea agreement in this case which is as
18 follows: In exchange for my plea of guilty to one count of BATTERY BY A PRISONER IN
19 CUSTODY, a violation of NRS 200.481(2)(f), a category B felony, the State has agreed not to
20 charge a second count of BATTERY BY A PRISONER IN CUSTODY, a violation of NRS
21 200.481(2)(f), a category B felony in the Information. The parties have the right to argue for
22 any lawful sentence. I understand that, at the time of sentencing, the State may present
23 arguments, facts, and/or witnesses in support of the plea agreement.

24 I understand that the State also reserves the right at sentencing to provide the court with
25 relevant information that may not be in the court's possession; to call victims to make a victim
26 impact statement; to question my character witnesses; to comment on the circumstances of the
27 crime and my criminal history; and to correct factual misstatements made by me or my
28 character witnesses.

CONSEQUENCES OF THE PLEA

I understand that, by pleading guilty, I admit the facts which support all the elements of the offense to which I now plead as more fully alleged in the Information, a copy of which I have received and the contents of which I have reviewed with my attorney. I admit that the State possesses sufficient evidence which would result in my conviction.

I understand that, as a consequence of my plea of guilty, I may be imprisoned in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years. I understand that the law requires me to pay an administrative assessment fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offense to which I am pleading guilty and to the victim of any related offenses which are being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses related to my extradition, if any.

I understand that I am eligible for probation for the offense to which I am pleading guilty. I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge.

I understand that, except as otherwise provided by statute, if more than one sentence of imprisonment is imposed, the sentencing judge has the discretion to order the sentences to be served concurrently or consecutively. My attorney has explained the terms concurrent and consecutive and I understand their meaning as it relates to sentencing.

I understand that this plea and resulting conviction may have adverse effects upon my residency in this country if I am not a United States citizen.

I understand and agree that the State, at its discretion, is entitled to either withdraw from this agreement and proceed with the prosecution of the original offenses or be free to argue for an appropriate sentence at the time of the sentencing hearing if I: (1) fail to appear at any scheduled court proceeding in this matter; (2) am arrested for a violation of law in any jurisdiction prior to my sentencing hearing; (3) violate any of my bail conditions; (4) fail to cooperate fully with the Division of Parole and Probation in the preparation of the presentence investigation report in this case if said report is ordered by the court; or (5) fail to comply with

1 any other condition stated herein. I understand and agree that the occurrence of any of these
2 acts constitutes a material breach of my guilty plea agreement with the State. I further agree to
3 waive any right I may have to remand this matter to Justice Court should this agreement be set
4 aside for any reason.

5 I understand that information regarding offenses not filed, dismissed offenses or
6 offenses to be dismissed pursuant to this agreement may be considered by the judge at
7 sentencing.

8 I have not been promised or guaranteed any particular sentence by anyone. I know that
9 my sentence is to be determined by the court within the limits prescribed by statute. I
10 understand that if my attorney, the State of Nevada, or both recommend any specific
11 punishment to the court, the court is not obligated to accept the recommendation.

12 I understand that the Division of Parole and Probation of the Department of Public
13 Safety may or will prepare a report for the sentencing judge before sentencing. This report will
14 include matters relevant to the issue of sentencing, including my criminal history. I understand
15 that this report may contain hearsay information regarding my criminal history and the facts
16 and circumstances related to the offense. My attorney and I will each have the opportunity to
17 comment on the information contained in the report at the time of sentencing.

18 WAIVER OF RIGHTS

19 By entering my plea of guilty, I understand that I have waived the following rights and
20 privileges:

21 1. The constitutional privilege against self-incrimination, including the right to refuse
22 to testify at trial, in which event the prosecution would not be allowed to comment to the jury
23 about my refusal to testify.

24 2. The constitutional right to a speedy and public trial by an impartial jury, free of
25 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
26 assistance of an attorney, either appointed or retained. At trial, the State would bear the burden
27 of proving beyond a reasonable doubt each element of the offense charged.

28 3. The constitutional right to confront and cross-examine any witnesses who would

1 testify against me.

2 4. The constitutional right to subpoena witnesses to testify on my behalf.

3 5. The constitutional right to testify in my own defense.

4 6. The right to appeal the conviction, with the assistance of an attorney, either
5 appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional
6 or other grounds that challenge the legality of the proceedings and except as otherwise provided
7 in subsection 3 of NRS 174.035.

8 VOLUNTARINESS OF PLEA

9 I have discussed the elements of all the original offenses against me with my attorney
10 and I understand the nature of these offenses against me.

11 I understand that the State would have to prove each element of the offenses against me
12 at trial.

13 I have discussed with my attorney any possible defenses and circumstances which
14 might be in my favor.

15 All of the foregoing elements, consequences, rights and waiver of rights have been
16 thoroughly explained to me by my attorney.

17 I believe that pleading guilty and accepting this plea bargain is in my best interest and
18 that a trial would be contrary to my best interest.

19 I am signing this agreement voluntarily, after consultation with my attorney, and I am
20 not acting under duress or coercion or by virtue of any promises of leniency, except for those
21 set forth in this agreement.

22 I am not now under the influence of intoxicating liquor, a controlled substance or other
23 drug which would in any manner impair my ability to comprehend or understand this
24 agreement or the proceedings surrounding my entry of this plea.

25 /

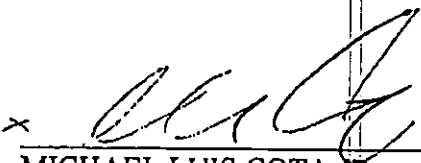
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1 My attorney has answered all my questions regarding this guilty plea agreement and its
2 consequences to my satisfaction, and I am satisfied with the services provided by my attorney.

3 Dated this 15 day of ^{August}~~July~~, 2018.

4
5 
6 MICHAEL LUIS COTA JR.
Defendant

7 Agreed to this 25 day of July, 2018.

8
9 
10 MATTHEW JOHNSON
Deputy District Attorney

11
12
13
14 CERTIFICATE OF COUNSEL

15 I, the undersigned, as the attorney for the defendant named herein and as an officer of
16 the court hereby certify:

17 1. I have fully explained to the defendant the allegations contained in the charges to
18 which guilty or guilty but mentally ill pleas are being entered.

19 2. I have advised the defendant of the penalties for each charge and the restitution that
20 the defendant may be ordered to pay.

21 3. All pleas of guilty or guilty but mentally ill offered by the defendant pursuant to this
22 agreement are consistent with all the facts known to me and are made with my advice to the
23 defendant and are in the best interest of the defendant.

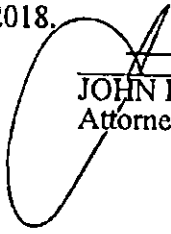
24 4. To the best of my knowledge and belief, the defendant:

25 a. Is competent and understands the charges and the consequences of pleading
26 guilty or guilty but mentally ill as provided in this agreement.

27 b. Executed this agreement and will enter all guilty or guilty but mentally ill
28 pleas pursuant hereto voluntarily.

1 c. Was not under the influence of intoxicating liquor, a controlled substance or
2 other drug at the time of the execution of this agreement.

3 Dated this 1st day of August, 2018.

4 
5 JOHN E. MALONE,
6 Attorney for Defendant
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Douglas County District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800 Fax (775) 782-9807

1 Case No. 18-CR-0116
2 Dept. No. II

RECEIVED

OCT 10 2018

Douglas County
District Court Clerk

FILED

2018 OCT 10 AM 11:55

ROBBIE R. WILLIAMS
CLERK

BY *W. Williams*

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

JUDGMENT OF CONVICTION

12 MICHAEL LUIS COTA,
13 Defendant.

14
15 On the 6th day of August, 2018, Defendant entered a plea of
16 guilty to the following offense contained within the Information:
17 BATTERY BY A PRISONER IN CUSTODY, a violation of
18 NRS 200.481(2)(f), a category B felony.

19 On the 8th day of October, 2018, Defendant appeared for
20 sentencing. Finding no legal cause why judgment should not be
21 pronounced, judgment was rendered as follows: BATTERY BY A
22 PRISONER IN CUSTODY, a violation of NRS 200.481(2)(f), a category
23 B felony, imprisonment in the state prison for a maximum term of
24 seventy-two (72) months and a minimum term of twenty-four (24)
25 months to run consecutive to the Ninth Judicial District Court
26 Case Number 18-CR-0084. Defendant is granted zero (0) days credit
27 for time served.

28 Defendant shall pay statutory fees and assessments of \$25.00

1 (NRS 176.062), and \$3.00 (NRS 176.0623).

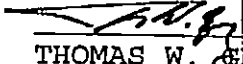
2 This judgment constitutes a lien in like manner as a judgment
3 rendered in a civil action. NRS 176.275.

4 DATED this 10th day of October, 2018.

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THOMAS W. GREGORY
DISTRICT JUDGE

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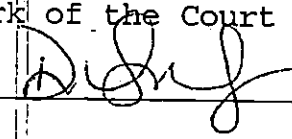
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28

1 STATE OF NEVADA)
2) ss
3 COUNTY OF DOUGLAS)

4 I, BOBBIE R. WILLIAMS, Clerk of the Court of Douglas
5 County, State of Nevada, and ex-officio Clerk of the District
6 Court, Ninth Judicial District of the State of Nevada, in and
7 for the said County of Douglas; said Court being a Court of
8 Record, having common law jurisdiction, and a Clerk and a Seal,
9 do hereby certify that the attached are true copies of the
10 following originals in Case No. 18-CR-0116 (THE STATE OF NEVADA
11 V. MICHAEL LUIS COTA, JR.) Information, Guilty Plea Agreement
12 and Judgment of Conviction.

13
14 IN TESTIMONY WHEREOF, I have hereunto
15 set my hand and affixed my Official
16 Seal at Minden, in said County and
17 State this 13th day of September, 2021
18

19 
20 Bobbie Williams, Clerk of the Court
21 By: 
22 Deputy Court Clerk
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1 Case No. 18-CR-00116B

2 Dept No. II

3 DA 18-1274M

4 This document does not contain personal information of any person

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF DOUGLAS

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 v.

CERTIFICATE OF SERVICE

11 MICHAEL LUIS COTA, JR.,

12 Defendant.
13

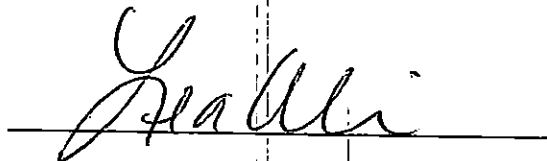
14 Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for
15 Douglas County, Nevada, and that I deposited for delivery a true copy of the Answer to
16 Petition for Writ of Habeas Corpus (Post Conviction) and Return (Post-Conviction Petition for
17 Writ of Habeas Corpus).

18 addressed to:

19 Michael Luis Cota, Jr. NDOC #1206075
20 Ely State Prison
21 P.O. Box 1989
Ely, Nevada 89301

- 22 ☒ U.S. Mail
23 ☐ Reno/Carson Messenger
24 ☐ Hand Delivery
25 ☐ By placing a copy in the pick-up folder in the District Attorney's Office.

26 DATED this 15th day of September, 2021.

27 
28

1 Case No. 18-CR-00116B

2 Dept No. II

3 DA 18-1274M

4 This document does not contain personal information of any person

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF DOUGLAS

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 v.

CERTIFICATE OF SERVICE

11 MICHAEL LUIS COTA, JR.,

12 Defendant.
13

14 Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for
15 Douglas County, Nevada, and that I deposited for delivery a true copy of the Answer to
16 Petition for Writ of Habeas Corpus (Post Conviction) and Return (Post-Conviction Petition for
17 Writ of Habeas Corpus).

18 addressed to:

19 Michael Luis Cota, Jr. NDOC #1206075
20 Ely State Prison
21 P.O. Box 1989
Ely, Nevada 89301

- 22 ☒ U.S. Mail
23 ☐ Reno/Carson Messenger
24 ☐ Hand Delivery
25 ☐ By placing a copy in the pick-up folder in the District Attorney's Office.

26 DATED this 15th day of September, 2021.

27
28 

RECEIVED

SEP 20 2021

Douglas County
District Court Clerk

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

FILED

2021 SEP 20 AM 10:26

MICHAEL LUIS COTA,
Petitioner,

vs.

**THE NINTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF DOUGLAS,**

Respondent,

and

THE STATE OF NEVADA,
Real Party in Interest.

Supreme Court No. 83521
District Court Case No. 18-CR-005418-CR-

v 0116

BY

DEPUTY

RECEIPT FOR DOCUMENTS

TO: Michael Luis Cota
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney
Bobbie W. Williams, Douglas County Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

09/17/2021 Petition Filing Fee waived. Criminal. (SC)

09/17/2021 Filed Proper Person Petition for Writ of Mandamus. (Exhibits
attached) (SC)

DATE: September 17, 2021

Elizabeth A. Brown, Clerk of Court
lh

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SEP 23 2021

MEMORANDUM OF POINTS AND AUTHORITIES

Douglas County
District Court Clerk

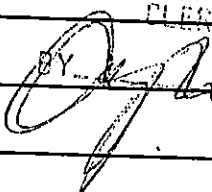
NINTH JUDICIAL DISTRICT COURT

DOUGLAS COUNTY NEVADA

FILED

2021 SEP 23 10:06

DOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

MICHAEL COTA

CASE NO:

Plaintiff

18-CR-0084

VS

18-CR-0116

STATE OF NEVADA

18-CR-00084B

Respondent

18-CR-00116B

MOTION FOR ORDER FOR Complete Docket Sheet

MR COTAS REQUESTS TO THE CLERK OF COURTS
FOR THESE DOCKET SHEETS HAVE BEEN IGNORED.
MR COTA NEEDS THESE DOCKET SHEETS FOR
FEDERAL LITIGATION. IN ADDITION MR COTA WAS
ONLY AWARE OF CASES 18-CR-0084 AND 18-CR-0116
THE OTHER TWO CASE NUMBERS ARE A MYSTERY AND
NEED TO BE IMMEDIATELY RESEARCHED.

DATED THIS 21ST DAY OF September 2021

X 

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 21st day of September, 2021.

M. A. Cota

MICHAEL COTA #1206075
ELY STATE PRISON
P.O. BOX 1989
Ely, NV. 89301
Plaintiff In Pro Se

1 Case No. 2018-CR-00084/00084B/00116/00116B

2 Dept. No. II

RECEIVED

OCT 15 2021

Douglas County
District Court Clerk

FILED

2021 OCT 15 AM 10:29

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

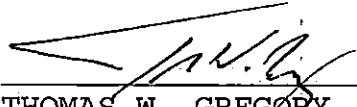
12 MICHAEL LUIS COTA,
13 Defendant.

ORDER REGARDING MOTION FOR
COMPLETE DOCKET SHEET

15 THIS MATTER comes before the Court on Defendant's Motion for
16 Complete Docket Sheet filed on September 23, 2021. Good cause
17 appearing, the Clerk of the Court shall provide Defendant with the
18 complete docket sheet for each case.

19 IT IS SO ORDERED.

20 DATED this 14th day of October, 2021.

21
22 
23 THOMAS W. GREGORY
24 DISTRICT JUDGE
25
26
27
28

1 Copies served by mail/hand delivered on October 15th, 2021,
2 addressed to:

3 Douglas County District Attorney's Office (Hand Delivery)
4 1038 Buckeye Road
5 Minden, Nevada 89423

6 Michael Cota (Mail)
7 #1206075
8 Ely State Prison
9 P.O. Box 1989
10 Ely, Nevada 89301

11 Office of the Attorney General (Mail)
12 100 N. Carson Street
13 Carson City, Nevada 89701

14 Erin C. Plante
15 Erin C. Plante
16
17
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RECEIVED

OCT 15 2021

Douglas County
District Court Clerk

FILED

2018-CR-00116BD

2021 OCT 15 PM 4:25

DOBBIE R. WILLIAMS
CLERK

[Signature]
DEPUTY

SUPREME COURT
STATE OF NEVADA

NAME, MICHAEL COTA
Plaintiff(s),

-vs-

NAME, NINTH JUDICIAL DISTRICT
Court
Defendant(s).

CASE NO. 2018 - CR-00116BD

To Be Supplied By Clerk

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a WRIT OF HABEAS CORPUS BE ISSUED
AGAINST NINTH JUDICIAL DISTRICT COURT TO FORCE THEM TO
ADJUDICATE LEGALLY FILED MOTIONS.

The above is made and based on the following Memorandum of Points and Authorities.

B. NATURE OF THE CASE

Briefly state, in numbered paragraphs, the background facts of your case (you may attach additional pages, in necessary):

MR COTA WAS SENTENCED IN DOUGLAS COUNTY IN 2018. MR COTA HAS LEGALLY FILED SEVERAL MOTIONS WITH THE COURT INCLUDING MOTION FOR SENTENCE MODIFICATION, PETITION FOR WRIT OF HABEAS CORPUS, PETITION FOR GENETIC MARKER ANALYSIS, MOTION TO ORDER COUNSEL TO PRODUCE ALL CASE RECORDS AND OTHERS. WE SHALL PROVE BY EXHIBITS THAT THE COURT REFUSES TO ADJUDICATE LEGALLY FILED MOTIONS. EXHIBIT 1 IS A STATE CIVIL RIGHTS COMPLAINT RECEIVED BY THE COURT ON AUGUST 9, 2021, IT HAS NEVER BEEN EVEN ASSIGNED A CASE #. EXHIBIT 2 IS A LETTER FROM CLERK OF COURTS ADVISING MR COTA TO FILE INFORMAL PAPERS WHICH HE DID ON 8-12-21. THAT WAS THE LAST COMMUNICATION. EXHIBIT 3, DATED 8-12-21 SHOWS MR COTA'S ORDER TO SERVE DEFENDANTS ON PETITION FOR WRIT OF HABEAS CORPUS, WHICH HE COMPLIED WITH ON 8/17/21 THEN NO FURTHER COMMUNICATION. EXHIBIT 4 IS IDENTICAL TO EXHIBIT 3 EXCEPT THAT IT COVERS MR COTA'S 2ND CASE. SERVICE TO DEFENDANTS WAS DONE ON 8/17/21. EXHIBITS 5+6 ARE FILE STAMPED MOTIONS FOR SENTENCE MODIFICATION FILED 7/28/21 YET NO ADJUDICATION. MR COTA FILED PETITION FOR GENETIC MARKER ANALYSIS ON 8/23/21 BUT TO DATE HAS RECEIVED NO REPLY FROM COURT.

1 MR COTA HAS ALSO FILED ON 8/23/21 A MOTION
2 TO COMPEL FORMER COUNSEL TO PRODUCE CASE
3 RECORDS, TO DATE NO REPLY. MR COTA HAS
4 A CONSTITUTIONAL RIGHT TO ADDRESS THE COURT
5 THIS IS BEING DENIED. THE NINTH JUDICIAL DISTRICT
6 COURT REFUSES TO EVEN SUPPLY A CASE # ON
7 A CIVIL RIGHTS ACTION AGAINST THEM.
8 A WRIT OF MANDAMUS MUST BE ISSUED TO COMPEL
9 THE COURT TO PERFORM THEIR LEGAL DUTIES.
10
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22

23
24 Dated this TH day of OCTOBER, 2021

25
26 By: X MS COTA
27
28

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCF Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein
and that on this 7th day of October, 20 21, I mailed a true and correct copy of this
foregoing PETITION FOR WRIT OF HABEAS CORPUS to the following:

DOUGLAS COUNTY DISTRICT ATTORNEY
P.O. Box 218
MINDEN, NV 89423

BY: MA [Signature]

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, _____

PETITION FOR WRIT OF HABEAS CORPUS

Filed in case number: To Be Supplied (Title of Document)

☒ Document does not contain the social security number of any person

Or

☐ Document contains the social security number of a person as required by:

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 10-7-21


(Signature)

MICHAEL COTA
(Print Name)

DROSE
(Attorney for)

EXHIBIT 1

EXHIBIT 1

582

RECEIVED

Case No. _____
Dept. No. _____

AUG 09 2021

Douglas County
District Court Clerk

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA

Plaintiff,

Vs.

JOHN MALONE
THOMAS M. GREGORY
DOUGLAS CO. DISTRICT ATTORNEY
Defendant.

STATE CIVIL RIGHTS COMPLAINT

Comes now Plaintiff, and for his cause of action, complains of Defendants, and each of them as follows:

A. JURISDICTION.

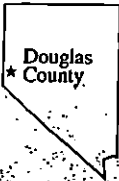
1) This complaint alleges that the civil rights of Plaintiff, MICHAEL COTA, who presently resides at Ely State Prison, White Pine County, Ely, Nevada, were violated by the actions of the below-named individuals, which were directed against Plaintiff at (Institution where violations occurred) DOUGLAS COUNTY JAIL, on the following dates: Count I: 10-8-18
Count II: CONTINUES, Count III: _____, (List additional counts and dates, if applicable): _____

2) Defendant (Full Name): JOHN MALONE, resides at (Full Address): 1662 U.S. Hwy 395
P.O. BOX 218 MINDEN, NV 89423, and is employed as (Title and Position, if any): COUNSEL. This defendant is sued in his/her (check one or both): ☒ Individual ☒ Official capacity. Explain how this defendant was acting under color of law: PARTICIPATED IN A PLAN TO VIOLATE NRS 624.030(2)
WHICH VIOLATED DUE PROCESS LAW

EXHIBIT 2

EXHIBIT 2

584



BOBBIE R. WILLIAMS
CLERK OF COURT
COURT ADMINISTRATOR
JURY COMMISSIONER

District Court Clerk's Office
(775) 782-9820
Tahoe Justice Court
(775) 586-7200
East Fork Justice Court
(775) 782-9955

NOTICE OF RETURNED DOCUMENTS

Date: 8/9/2021

From: District Court Clerk's Office

Re: Enclosures

The enclosed documents are being returned for the following reason(s):

- ☐ Civil Cover Sheet required
- ☒ Filing fee required (Fee schedule provided) \$285.00
or fill out Application to Proceed in Forma Pauperis
- ☐ Incorrect filing fee received
- ☐ Non-compliance of Rule 11 of Rules of Civil Procedure
(Signing of pleadings)
- ☐ Non-compliance of Rule 12 of the District Court Rules;
specifically, _____
- ☐ Other: _____

We apologize for any inconvenience caused by the return of these documents. If you have any questions, please feel free to contact our office.

Very truly yours,

CLERK OF THE COURT

By: _____
Deputy Court Clerk

Enclosure

EXHIBIT 3

EXHIBIT 3

7-30-37

1 Case No. 2018-CR-00084B

RECEIVED

2 Dept. No. II

AUG 12 2021

2021 AUG 12 AM 8:52

3 Douglas County
4 District Court Clerk

RODNEY R. WILLIAMS
CLERK

5 K. WILFERT DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 MICHAEL COTA,

10 Petitioner,

11 vs.

ORDER

12 WARDEN, Nevada Department of
13 Corrections,

14 Respondent.

15 Petitioner filed a *Petition for Writ of Habeas Corpus (Post-*
16 *Conviction)* on August 9, 2021. The Petition has not been served
17 on the Attorney General or the District Attorney. NRS 34.730.
18 Petitioner shall, no later than September 12, 2021, serve the
19 Attorney General and the District Attorney with conformed copies
20 of the Petition and file proof of service with the Court. Failure
21 to comply will result in dismissal of the Petition.

22 The State shall, within 45 days of service of the Petition,
23 respond to the Petition and file a return in accordance with the

24 ///

25 ///

26 ///

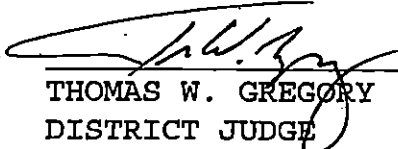
27 ///

28 ///

1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12th day of August, 2021.

5
6 
7 THOMAS W. GREGORY
8 DISTRICT JUDGE
9

10 Copies served by mail/hand delivery on August 12th, 2021,
11 addressed to:

12 Michael Cota (Mail)

#1206075

13 Ely State Prison

14 P.O. Box 1989

Ely, Nevada 89301

15 Douglas County District Attorney's Office (Hand Delivery)

16 1038 Buckeye Road

17 Minden, Nevada 89423

18 Office of the Attorney General (Mail)

19 100 N. Carson Street

20 Carson City, Nevada 898701

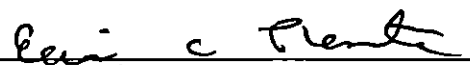
21 
22 Erin C. Plante
23
24
25
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27
28

EXHIBIT 4

EXHIBIT 4

RECEIVED

Case No. 2018-CR-00116B

AUG 12 2021

Dept. No. II

Douglas County
District Court Clerk

2021 AUG 12 AM 8:52

BOBRET WILLIAMS
CLERK

KR WILFERT DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

ORDER

WARDEN, Nevada Department of
Corrections,

Respondent.

Petitioner filed a *Petition for Writ of Habeas Corpus (Post-Conviction)* on August 9, 2021. The Petition has not been served on the Attorney General or the District Attorney. NRS 34.730. Petitioner shall, no later than September 12, 2021, serve the Attorney General and the District Attorney with conformed copies of the *Petition* and file proof of service with the Court. Failure to comply will result in dismissal of the *Petition*.

The State shall, within 45 days of service of the *Petition*, respond to the *Petition* and file a return in accordance with the

///

///

///

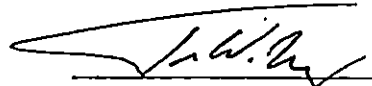
///

///

1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12th day of August, 2021.

5
6 
7 THOMAS W. GREGORY
8 DISTRICT JUDGE
9

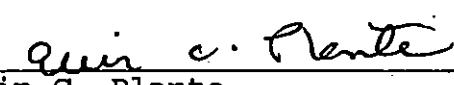
10 Copies served by mail/hand delivery on August 12th, 2021,
11 addressed to:

12 Michael Cota (Mail)
13 #1206075

14 Ely State Prison
15 P.O. Box 1989
16 Ely, Nevada 89301

17 Douglas County District Attorney's Office (Hand Delivery)
18 1038 Buckeye Road
19 Minden, Nevada 89423

20 Office of the Attorney General (Mail)
21 100 N. Carson Street
22 Carson City, Nevada 898701

23
24 
25 Erin C. Plante
26
27
28

RECEIVED

JUL 28 2021

Douglas County
District Court Clerk

2021 JUL 28 AM 10:14

BETH WILLIAMS

CLERK
BY *[Signature]* DEPUTY

9th JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0116 ✓
18-CR-0084

MOTION FOR MODIFICATION OF SENTENCE

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a ORDER TO MODIFY THE SENTENCES
IMPOSED ON OCTOBER 8, 2018.

The above is made and based on the following Memorandum of Points and Authorities.

EXHIBIT 6

EXHIBIT 6

RECEIVED

JUL 28 2021

Douglas County
District Court Clerk

FILED
2021 JUL 28 AM 10:14

BRUCE A. WILLIAMS
CLERK

9th JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

DEPUTY

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0116

18-CR-0084 ✓

MOTION FOR MODIFICATION OF SENTENCE

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a ORDER TO MODIFY THE SENTENCES
IMPOSED ON OCTOBER 8, 2018.

The above is made and based on the following Memorandum of Points and Authorities.

RECEIVED

OCT 18 2021

Douglas County
District Court Clerk

FILED

2018-CR-00116 BD

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

No. 83521

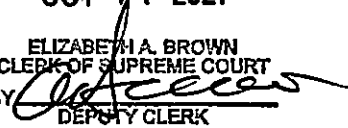
MICHAEL LUIS COTA,
Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
DOUGLAS,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

FILED

OCT 14 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION

This is an original pro se petition for a writ of mandamus in which petitioner appears to complain that he was deprived of his right to appeal his conviction because that appeal was "entitled in the wrong county."

Having considered the petition, we are not persuaded that our extraordinary intervention is warranted because an appeal from the judgment of conviction constitutes a plain, speedy, and adequate remedy precluding writ relief. *See* NRS 34.170; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (explaining that a writ of mandamus is proper only when there is no plain, speedy, and adequate remedy at law, that an appeal is generally an adequate remedy precluding writ relief, and that petitioner bears the burden of demonstrating that writ relief is warranted). The Nevada court of appeals order affirming petitioner's judgment of conviction correctly listed the Ninth Judicial District Court and the Honorable Thomas W. Gregory in the jurisdictional statement. *Cota v. State*, Docket Nos. 77414-COA and 77415-COA (Order

of Affirmance, Ct. App., March 19, 2020). Therefore, petitioner was not deprived of his right to appeal, nor was that appeal "entitled in the wrong county." Accordingly, we

ORDER the petition DENIED.¹

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Michael Luis Cota
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk

¹Given this disposition, any further requests by petitioner are denied as moot.

1 Case No. 2018-CR-00084B/00116B

2 Dept. No. II

RECEIVED

OCT 19 2021

Douglas County
District Court Clerk

FILED

2021 OCT 19 AM 8:32

BOBBIE R. WILLIAMS

CLERK

BY  DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 MICHAEL COTA,

10 Petitioner,

11 vs.

12 WARDEN, Nevada Department of
13 Corrections,

14 Respondent.

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS
(POST-CONVICTION)

15 THIS MATTER comes before the Court on Petitioner's *Petition*
16 *for Writ of Habeas Corpus (Post-Conviction)*. Good cause
17 appearing, the *Petition* is dismissed on procedural grounds and
18 substantive grounds.

19 Procedural Background

20 Petitioner entered a guilty plea and was sentenced. *Judgment*
21 *of Conviction* entered on October 10, 2018. Defendant direct
22 appealed. Following an *Order of Affirmance, Remittitur* issued on
23 April 17 2020.

24 Petitioner filed the pending *Petition for Writ of Habeas*
25 *Corpus (Post-Conviction)* on August 9, 2021, raising two grounds
26 for relief: due process and equal protection.

27 The State timely filed an *Answer to Petition for Writ of*
28 *Habeas Corpus (Post-Conviction)* and *Return*. *Order*, August 12,

1 2021. The State requests dismissal on procedural and substantive
2 grounds.

3 Petitioner did not respond to the States' request to dismiss
4 on procedural grounds. NRS 34.750(4).

5 Analysis

6 Although Petitioner has not requested the appointment of
7 counsel, the Court has considered whether to appoint counsel.
8 Given obvious procedural deficiencies, the relative non-complexity
9 of the issues, Petitioner's ability to understand and the lack of
10 any need for discovery, the Court declines to appoint counsel.
11 NRS 34.750.

12 The Answer accurately state's the law and the procedural
13 history in all respects. The Court agrees with the State in all
14 respects as set forth more specifically below.

15 The Petition is untimely. NRS 34.726(1). Petitioner does
16 not provide any cause for the untimely filing. *Id.* Petitioner
17 does not argue that there will be a fundamental miscarriage of
18 justice unless procedural bars are excused. *Pellegrini v. State*,
19 117 Nev. 860, 887 (2001); *State v. Eight Judicial Dist. Court*
20 (*Riker*), 121 Nev. 225, 231 (2005). Due to the procedural bar, an
21 evidentiary hearing is not required and Petitioner is not entitled
22 to relief. NRS 34.770(2).

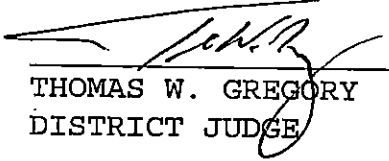
23 Irrespective, Petitioner's two grounds for relief are not
24 properly before the Court, NRS 34.810, and are not supported by
25 specific factual allegations not belied by the record, that, if
26 true, would entitled him to relief. *Mann v. State*, 118 Nev. 351,
27 353 (2002). The Petition bears denial, without an evidentiary
28 hearing, on these grounds as well. NRS 34.770(2).

1 Irrespective, Petitioner's claims lack merit. NRS 176.015;
2 McCleskey v. Kemp, 481 U.S. 279, 292 (1987).

3 Petitioner's Petition for Writ of Habeas Corpus (Post-
4 Conviction) is dismissed on procedural and substantive grounds.

5 IT IS SO ORDERED.

6 DATED this 18th day of October, 2021.

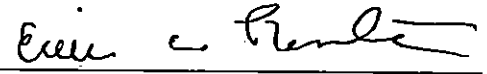
7
8 
9 THOMAS W. GREGORY
DISTRICT JUDGE

10
11
12 Copies served by mail/hand delivery on October 19th, 2021,
13 addressed to:

14 Michael Cota (Mail)
15 #1206075
16 Ely State Prison
17 P.O. Box 1989
18 Ely, Nevada 89301

19 Douglas County District Attorney's Office (Hand Delivery)
1038 Buckeye Road
Minden, Nevada 89423

20 Office of the Attorney General (Mail)
21 100 N. Carson Street
22 Carson City, Nevada 89701

23 
24 Erin C. Plante

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OCT 20 2021

Douglas County
District Court Clerk

FILED

2021 OCT 20 PM 4:39

BOBBIE R. WILLIAMS
CLERK

NINTH JUDICIAL DISTRICT COURT BY *[Signature]* DEPUTY
DOUGLAS COUNTY NEVADA

NAME, *§ MICHAEL COTA*

Plaintiff(s),

-vs-

CASE NO.

NAME, *STATE OF NEVADA*

Defendant(s).

18-CR-0084

18-CR 0116 ✓

NOTICE OF NON COMPLIANCE BY STATE
OF NEVADA. REQUEST TO GRANT HABEAS.

COMES NOW, *MICHAEL COTA*, in PRO PER and herein above respectfully

Moves this Honorable Court for a *NOTICE OF NON COMPLIANCE BY*
STATE OF NEVADA Concerning COURT ORDER OF August 12, 2021
DIRECTING STATE TO Respond to MR COTAS PETITION FOR
WRIT OF HABEAS CORPUS.

The above is made and based on the following Memorandum of Points and Authorities.

1 ON August 12, 2021 This Court ENTERED AN ORDER
2 FIRST DIRECTING MR COTA TO SERVE UPON THE DOUGLAS
3 COUNTY DISTRICT ATTORNEY AND THE NEVADA ATTORNEY
4 GENERAL A COPY OF HIS PETITION FOR WRIT OF
5 HABEAS CORPUS. MR COTA IMMEDIATELY COMPLIED
6 AND SERVED BOTH PARTIES, SERVICE SENT US MAIL ON
7 AUGUST 18, 2021, AND RECEIVED ON OR BEFORE AUGUST 24,
8 2021. THE STATE WAS THEN ORDERED TO RESPOND TO MR
9 COTA'S PETITION BY ~~SEPTEMBER~~ ^{OCTOBER} 8, 2021. THEY DID NOT COMPLY.
10 IT IS NOW OCTOBER 18, 2021 AND THE STATE, AS OF THIS
11 DATE, HAS BEEN IN CONTEMPT OF THE ORDER FOR 10
12 DAYS AS 55 DAYS HAVE PASSED. AS SUCH THE
13 STATE OF NEVADA HAS STIPULATED TO THE SERIOUS
14 FACTS CONTAINED IN MR COTA'S PETITION SINCE
15 THE FACTS ARE NOT IN DISPUTE! MR COTA ASKS
16 THAT HIS PETITION FOR WRIT OF HABEAS CORPUS
17 BE IMMEDIATELY GRANTED, AND MR COTA'S
18 RELEASE ORDERED.

21
22
23
24 Dated this 18th day of OCTOBER, 2021

25
26 By: M. C. Cota

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 18th day of October, 2021.

x Michael Cota

MICHAEL COTA #1206075

ELY STATE PRISON

P.O. BOX 1989

Ely, NV. 89301

Plaintiff In Pro Se

RECEIVED

OCT 20 2021

Douglas County
District Court Clerk

FILED

2021 OCT 20 PM 4:39

BORDIE R. WILLIAMS
CLERK

DEPUTY

NINTH JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

NAME, STATE OF NEVADA

Plaintiff(s),

-vs-

NAME, MICHAEL COTA

Defendant(s).

CASE NO.

18CR-00841

18CR-0116 ✓

MOTION FOR CHANGE OF VENUE

COMES NOW, MICHAEL COTA, in PRO PER and herein above respectfully

Moves this Honorable Court for a CHANGE OF VENUE FOR HIS
POST CONVICTION LITIGATION IN THE ABOVE CASES

The above is made and based on the following Memorandum of Points and Authorities.

1 MR COTA IS BEING VICTIMIZED BY THIS COURT AND
2 OR THE CLERK OF COURTS. MR COTA HAS FILED SEVERAL
3 LEGAL MOTIONS IN THIS COURT WHICH REMAIN IN LIMBO
4 NOW FOR SEVERAL MONTHS. MR COTA HAS A HABEAS
5 CORPUS PENDING IN WHICH THE STATE OF NEVADA
6 AND THE NEVADA ATTORNEY GENERAL HAVE NOT RESPONDED
7 WHICH IS IN DIRECT VIOLATION OF THIS COURT'S ORDER
8 OF AUGUST 12, 2021. MR COTA HAS COMPLIED WITH
9 ALL COURT ORDERS YET NONE OF HIS MOTIONS HAVE
10 BEEN ADJUDICATED. HE HAS BEEN REFUSED A CASE
11 NUMBER ON HIS STATE CIVIL RIGHTS COMPLAINT. & THE
12 JUDGE, DA AND CLERK ARE ALL NAMED DEFENDANTS
13 IN FEDERAL CIVIL RIGHTS LAWSUITS PENDING IN
14 U.S. DISTRICT COURT AS SUCH THIS COURT HAS A CONFLICT
15 OF INTEREST. MR COTA REQUESTS HIS CASES BE
16 TRANSFERRED TO THE EIGHTH JUDICIAL DISTRICT COURT
17 CLARK COUNTY NEVADA.
18
19
20
21
22
23

24 Dated this 18th day of October, 2021.

26 By: M. Cota
27
28

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 18th day of October, 2021.

X M. S. Cota II

MICHAEL COTA # 1206075
ELY STATE PRISON
P.O. BOX 1989
Ely, NV. 89301
Plaintiff In Pro Se

RECEIVED

FILED

Case No. 2018-CR-00116B

OCT 22 2021

2021 OCT 22 AM 8:56

Dept. No. II

Douglas County
District Court Clerk

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

NOTICE OF ENTRY OF ORDER

WARDEN, Nevada Department of
Corrections,

Respondent,

PLEASE TAKE NOTICE that on October 19, 2021, the Court entered Order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by 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 33 days after the date of this notice is mailed to you.

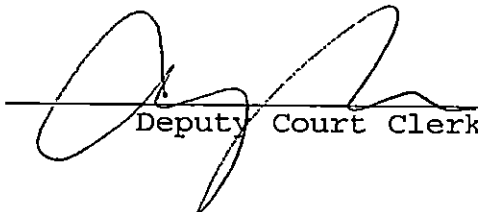
This notice was mailed on October 22, 2021.


CLERK OF COURT

By 

DEPUTY

1 Copies served this 22nd day of October 2021 to:
2 Michael Cota
3 #1206075
4 Ely State Prison
5 P.O. box 1989
6 Ely, Nevada 89301
7
8 Douglas County District Attorney's Office
9 1038 Buckeye Road
10 Minden, Nevada 89423 (hand delivered)
11
12 Office of the Attorney General
13 100 N. Carson Street
14 Carson City, Nevada 89701
15
16 William Gittere (Warden)
17 Nevada Department of Corrections
18 Ely State Prison
19 P.O. Box 1989
20 4569 North State Route 490
21 Ely, Nevada 89301
22
23
24
25
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Deputy Court Clerk

Case No. 2018-CR-00116B

Dept. No. II

RECEIVED

OCT 22 2021

Douglas County
District Court Clerk

FILED

2021 OCT 22 AM 9:26

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

AMENDED NOTICE OF ENTRY OF
ORDER

WARDEN, Nevada Department of
Corrections,

Respondent,

PLEASE TAKE NOTICE that on October 19, 2021, the Court entered Order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by 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 33 days after the date of this notice is mailed to you.

This notice was mailed on October 22, 2021.


CLERK OF COURT

By 

DEPUTY

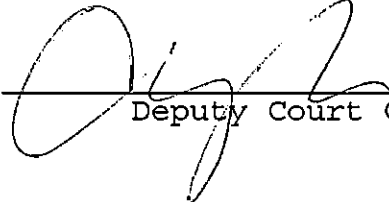
1 Copies served this 22nd day of October 2021 to:

2 Michael Cota
3 #1206075
4 Ely State Prison
5 P.O. box 1989
6 Ely, Nevada 89301

7 Douglas County District Attorney's Office
8 1038 Buckeye Road
9 Minden, Nevada 89423 (hand delivered)

10 Office of the Attorney General
11 100 N. Carson Street
12 Carson City, Nevada 89701

13 William Gittere (Warden)
14 Nevada Department of Corrections
15 Ely State Prison
16 P.O. Box 1989
17 4569 North State Route 490
18 Ely, Nevada 89301


Deputy Court Clerk

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RECEIVED

OCT 25 2021

Douglas County
District Court Clerk

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

FILED

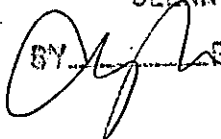
MICHAEL LUIS COTA,
Petitioner,
vs.

THE NINTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF DOUGLAS,
Respondent.

Supreme Court No. 83663

District Court Case No. **2018-CR-001116B**
BONNIE R. WILLIAMS
CLERK

2021 OCT 25 AM 10:17

BY  DEPUTY

2018-CR-001116B

RECEIPT FOR DOCUMENTS

TO: Michael Luis Cota
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney
Bobbie W. Williams, Douglas County Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

10/22/2021 Petition Filing Fee waived. Criminal. (SC)
10/22/2021 Filed Proper Person Petition for Writ of Mandamus. (Exhibits
attached) (SC)

DATE: October 22, 2021

Elizabeth A. Brown, Clerk of Court
lh

RECEIVED

OCT 28 2021

B. NATURE OF THE CASE

Briefly state, in numbered paragraphs, the background facts of your case (you may attach additional pages, in necessary):

Douglas County
District Court Clerk

FILED

OCT 28 PM 3:07

BOBBIE R. WILLIAMS
CLERK

BY [Signature] DEPUTY

NINTH JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

MICHAEL COTA

CASE #'S

PLAINTIFF

CR-18-0084

VS

CR-18-0116 ✓B

WARDEN William GITTERE

Respondent

NOTICE OF APPEAL

MR COTA GIVES NOTICE OF HIS APPEAL TO THE NEVADA SUPREME COURT OF THIS COURTS DISMISSAL OF HIS PETITION FOR WRIT OF HABEAS CORPUS. MR COTA WAS NEVER SERVED WITH THE STATES Response So HE Could Answer. Also on the Denial it STATES the Answer WAS FILED ON 8/12/21 YET THE DOCKET SHEET STATES 9/15/21. MR COTA HAD AN ABSOLUTE RIGHT TO BE SERVED SO HE Could Respond.

DATED THIS 21ST DAY OF OCTOBER 2021
X [Signature]

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 21ST day of OCTOBER, 2021.

x MICHAEL COTA II

MICHAEL COTA #1206075
ELY STATE PRISON
P.O. BOX 1989
Ely, NV. 89301
Plaintiff In Pro Se

RECEIVED

NOV 09 2021

Douglas County
District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,
Petitioner,
vs.

THE NINTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
DOUGLAS,
Respondent,

and
THE STATE OF NEVADA,
Real Party in Interest.

FILED

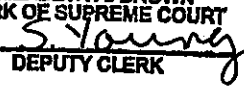
2021 NOV -9 PM 3:5

BOBBIE R. WILLIAMS
CLERK

No. 83521 BY  DEPUTY

FILED

NOV 05 2021


ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

2018 - CR - 00116 B

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

 C.J.

Hardesty

 J.

Parraguirre

 J.

Stiglich

cc: Michael Luis Cota
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk

Form-2 Case Appeal Statement

FILED
No. 2018-CR-00116B
2021 NOV 15 AM 9:03

Dept. No. II

DOUGLAS COUNTY CLERK
DEPUTY
MICHAEL COTA,
IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

Appellant,

vs

WARDEN, N.D.O.C.
THE STATE OF NEVADA,

Respondent.

RECEIVED

NOV 15 2021

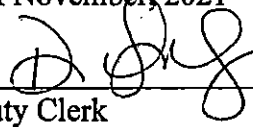
Douglas County
District Court Clerk

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301- In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: The defendant was originally appointed John Malone, the Court discharged John Malone on 5/21/2020. The defendant is now representing himself, pro per.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
Unrepresented.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:
The appellant has not been granted leave to proceed in forma pauperis.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): The information was filed on 7/25/2018. The defendant filed a Petition for Writ of Habeas Corpus (Post Conviction) on 8/9/2021.
10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the court: The defendant is appealing the Court's Order Dismissing Petition for Writ of Habeas Corpus (Post-Conviction) entered on 10/19/2021.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:
No. 83663 and 83521
12. Indicate whether this appeal involves child custody or visitation:
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
No.

Dated this 15th day of November, 2021



Deputy Clerk
P.O. Box 218
Minden, Nevada 89423
775-782-9820

RECEIVED

NOV 16 2021

Douglas County
District Court Clerk

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

MICHAEL LUIS COTA,

Appellant,

vs.

WILLIAM A. GITTERE, WARDEN, NEVADA

DEPARTMENT OF CORRECTIONS,

Respondent.

Supreme Court No. 83773

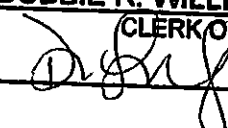
District Court Case No. 18-CR-00084; 18-CR-

⁰⁰¹¹⁶
NO. 2018 CR-00116B

FILED November 16, 2021 @ 9:30 a.m.

BOBBIE R. WILLIAMS

CLERK OF COURT

BY  **DEPUTY**

RECEIPT FOR DOCUMENTS

TO: Michael Luis Cota

Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney

Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

11/15/2021	Appeal Filing Fee waived. Criminal. (SC)
11/15/2021	Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (18-CR-00084) (SC)
11/15/2021	Filed Notice of Appeal/Proper Person. (18-CR-00116) (SC)

DATE: November 15, 2021

Elizabeth A. Brown, Clerk of Court
lh

617

RECEIVED

NOV 22 2021

Douglas County
District Court Clerk

FILED

NOV 22 PM 3:41

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBIE R. WILLIAMS

CLERK

BY

DEPUTY

No. 83663

2018CR00116 B

FILED

NOV 17 2021

ELIZABETH A. BROWN

CLERK OF SUPREME COURT

BY

DEPUTY CLERK

MICHAEL LUIS COTA,

Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF

DOUGLAS,

Respondent.

ORDER DENYING PETITION

This is an original writ petition seeking to compel the district court to take action on several documents filed in the district court.

The decision to entertain a petition for extraordinary writ relief lies within the discretion of this court. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). A writ of mandamus is available only to compel the performance of a legally required act or to cure an arbitrary and capricious exercise of discretion. *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). It is petitioner's burden to demonstrate that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Problematically, petitioner has not provided this court with a copy of the documents he alleges to have filed with the district court, namely a motion to proceed in forma pauperis, petition for genetic marker analysis, "motion to order counsel to produce all case records", or proof of service of the postconviction petition for a writ of habeas corpus, on the

attorney general or district attorney, precluding writ relief. See NRAP 21(a)(4) (providing the petitioner shall submit an appendix containing all documents "essential to understand the matters set forth in the petition"). Accordingly, we

ORDER the petition DENIED.

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Michael Luis Cota
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk

RECEIVED

DEC 15 2021

FILED

Douglas County
District Court Clerk

2021 DEC 15 AM 9:18

IN THE SUPREME COURT OF THE STATE OF NEVADA

GORDIE R. WILLIAMS

MICHAEL LUIS COTA,

BY  DEPUTY

Appellant,

vs.

WILLIAM A. GITTERE, WARDEN,
NEVADA DEPARTMENT OF
CORRECTIONS,

Respondent.

2018-CR-00084

(2018-CR-00110)B

No. 83773

FILED

DEC 13 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

**ORDER DIRECTING TRANSMISSION OF RECORD, REGARDING
BRIEFING, AND DENYING MOTION**

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP



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21-35358

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

Appellant has filed a pro se motion for an appointment of counsel. Appellant is not entitled to appointed counsel at the state's expense in postconviction proceedings. *See Brown v. McDaniel*, 130 Nev. 565, 569-71, 331 P.3d 867, 870-71 (2014); *see also Coleman v. Thompson*, 501 U.S. 722, 755 (1991). Accordingly, the motion is denied at this time.

It is so ORDERED.

L. J. J. J., C.J.

cc: Michael Luis Cota
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk

RECEIVED

JAN - 7 2022

Douglas County
District Court Clerk

FILED

2022 JAN -7 PM 6:29

BOBBIE R. WILLIAMS
CLERK

McAnelly
DEPUTY

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5 STATE OF NEVADA)
6) ss
7 COUNTY OF DOUGLAS)
8

9 I, BOBBIE R. WILLIAMS, Clerk of the Ninth Judicial
10 District Court, State of Nevada, in and for the said County of
11 Douglas; said Court being a Court of Record, having common law
12 jurisdiction, and a Clerk and a Seal, do hereby certify that the
13 foregoing are the full, true copies of the original pleadings
14 filed in Case No. 2018-CR-00116 STATE OF NEVADA V. MICHAEL L.
15 COTA and Case No. 2018-CR-00116BD MICHAEL L. COTA V. STATE OF
16 NEVADA.
17

18 IN TESTIMONY WHEREOF, I have hereunto set my hand
19 and affixed my Official Seal at Minden, in said County and State
20 this 7th day of January, A.D., 2022.
21

22
23 Clerk of the Court

24 *McAnelly*
25 Deputy Clerk
26
27
28