

FILED

JAN 10 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Marcus Campbell #1014221

Appellant,

vs.

Eighth Judicial District Court of Nevada

Respondent.

Supreme Court No. 83582

District Court No. C-232549

APPELLANT'S INFORMAL BRIEF

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

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

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

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

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

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

Informal Brief Form October 2017

JAN 10 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

22-00940

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

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

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

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

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

Filed Date	Name of Judgment or Order
8/13/21	Petition For Writ of Mandamus
9/27/21	Petitioner's Petition For Writ of Mandamus (order)

Notice of Appeal. Give the date you filed your notice of appeal in the district court: October 4, 2021

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

Case No.	Case Title	Name of Court

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

☐ Yes

☒ No

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

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

On November 15, 2007, Petitioner was convicted of 3 counts all stemming from a single incident that occurred when Petitioner was a juvenile. The offense resulted in the death of only one victim. Petitioner was sentenced to 54 years to life. MRS. 113.12135 was enacted years after Petitioner began serving his sentence.

On January 10, 2019 Petitioner filed a Motion to Correct an Illegal Sentencing requesting the District Court to impose a

Sentence with a twenty year maximum parole eligibility in compliance with NRS.213.12135. The District Court denied Motion on grounds that it was wrong vehicle to raise claim and instructing Petitioner to raise this claim in a Petitioner for Writ of Habeas Corpus instead.

On August 13, 2019, following the courts instruction Petitioner filed a Petitioners for Writ of Habeas Corpus requesting his maximum parole ~~of~~ eligibility be reduce from 54 years to twenty years in compliance with NRS.213.12135. The District Court denied Petitioner's Habeas Corpus on grounds that he had "already raised this issue in Motion to Correct Illegal Sentence.

Meanwhile on December 13, 2019, Petitioner filed a ~~Motion~~ different Petition for Writ of Habeas Corpus requesting credits against the 54 years ~~to~~ minimum parole eligibility based on NRS 209.4465 (7). District Court Judge Joe Hardy denied Petitioner relief under NRS 209.4465 but stated: "However, because Petitioner was 17 years when he committed his offense, he has eligibility for Parole is govern by NRS.213.12135(1)(b) which limits his eligibility for parole to a maximum of 20 years for offense that resulted in the death of only one victim. Thus, negating the minimum sentence for use of deadly weapon and those other pending consecutive counts.

Without a modification of sentence NKS-213-12135 is forceless as the law could be changed or rescinded before Appellant serves twenty calendar years in prison.

NRS 213.12135 mandates that a defendant serving a sentence for an offense or offenses committed as a juvenile that resulted in the death of only one person, shall be eligible for parole after serving twenty years in prison.

There have been numerous court decisions applying this law to incarcerated offenders in the state of Nevada. see *State v. Boston*.

However in District Court there have been inconsistent decisions concerning the modification of sentences to comply with this law.

For instance in defendant ~~John~~ Malone v. State, Dist. Ct. Case No. 21994B-1 (2019), the defendant who was sentenced to life without parole for a single homicide offense committed at the age of 14, had his sentence corrected/modified to 20 years to life in compliance with NRS 213.12-135. However, on Motion of the Nevada Department of Corrections (NDOC), Malone sentence was "corrected" to 20 years to life to reflect the gun-enhancement.

In the instance case, Appellant filed the same motion as Malone, yet was ultimately denied as the wrong vehicle. Appellant then filed a Habeas Petition under a different law, and though it was denied under that law, the court held that Appellant qualified for modification under NRS 213.12-135.

These conflicting decisions forced Appellant to file a Mandamus with this court, whom ultimately sent it back to the District Court.

The NDOC is Not complying with this law. While on Mandamus in District Court, the state argued incorrectly that the NDOC was taking it upon itself to comply with NRS 213.12/135. This claim is belied by the actions taken by the NDOC against Malone to add time beyond the twenty years eligibility period. This claim is also belied by Boston and the Numerous other defendants that were force to file Post-Conviction petitions which were opposed by the state and ~~denied~~ denied in District Court, only to be granted on appeal, despite having served well beyond 20 years in prison for crimes committed as a juvenile.

Without guidance from this court the District Court simply deferred to the state despite there being no authority on this matter.

For the foregoing reasons Appellant requests this court to direct the correction/modification of Appellant's sentence in accord with NRS 213.12135

Lined area for text entry.

DATED this 23 day of December, 2021.


Signature of Appellant

Marcus Campbell
Print Name of Appellant

CERTIFICATE OF SERVICE

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

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

DATED this 23 day of December, 2021.

Marcus Campbell

Signature of Appellant

Marcus Campbell

Print Name of Appellant

P.O. Box 650

Address

Indian Springs NV 89070

City/State/Zip

Telephone