

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID MICHAEL STEINHANER
Appellant,

No. 83828 **FILED**

MAY 24 2022

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

V.

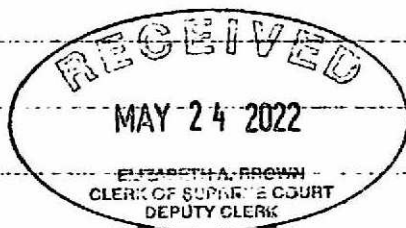
STATE OF NEVADA
Respondent,

PETITION FOR
REHEARING

Comes Now, DAVID MICHAEL STEINHANER,
PURSUANT TO NEV. RULES OF APP. PROCED. (N.R.A.P.)
RULE 40, DOES HEREBY PETITION FOR REHEARING
IN THE ABOVE MATTER.

IT IS TIMELY FILED PURSUANT TO RULE
40 (A) (1).

THE NEVADA COURT OF APPEALS FILED ITS
AFFIRMANCE ORDER ON MAY 5TH 2022.



POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR REHEARING

APPELLANT ASSERTS THE COURT OF APPEAL (COA) HEREINAFTER, HAS FAILED TO CONSIDER AUTHORITY ESTABLISHED BY THE NEVADA ATTORNEY GENERAL, SEE OPINION NO. 97-23 AUGUST 28, 1997.

IT STATES:

"A NEVADA DISTRICT COURT CANNOT VALIDLY SENTENCE A FELON PURSUANT TO A STATUTE NOT IN EFFECT AT THE TIME OF THE OFFENSE."

(SEE APPELLANTS INFORMAL BRIEF FILED JAN. 14, 2022 PG. 7 FOR CITE TO ABOVE)

NRS 207.012 WAS NOT IN EFFECT WHEN THE (1993) ALLEGED PREDICATE OFFENSE OCCURRED IN NEVADA

THE (1993) OFFENSE WAS PROSECUTED BY INDICTMENT IN (1994). THE TRUE BILL HANDED DOWN WAS FOR NRS 200.400. THUS, ONLY THE ENUMERATED NRS STATUTE ON THAT INDICTMENT BY GRAND JURY MAY BE USED AS A PRIOR AND WHAT OFFENSE WAS ARGUED IN FRONT OF THE DISTRICT COURT JURY. SEE EXHIBIT (1) PG. 34-35 IN MOTION TO VACATE.

THUS, BOTH THE INDICTMENT (see exhibit No. (1) CASE No. CR94-1122 pg. 34-36 IN THE MOTION TO VACATE, AND THE SECOND JUDGMENT IN CR94-1122, IN SAME, exhibit No. (3) pg. 38) VERIFY APPELLANTS ARGUMENT.

WHAT IS THE POINT OF A GRAND JURY PROCEEDING IF THE STATE OF NEVADA MAY LATER ALTER NOT ONLY THE INDICTMENT - BUT THE DISTRICT COURTS SECOND JUDGMENT - YEARS LATER?

THEREFORE, THE (COA) OPINION AND THE ATTORNEY GENERAL OPINION CREATE "CONFLICT" WITH ONE ANOTHER. NOWHERE DOES THE (AG) OPINION STATE IT APPLIES TO INSTANT CASES ONLY, IT CAN APPLY TO PAST OFFENSES AS WELL, THE LANGUAGE WOULD INDICATE PAST OR PRESENT OFFENSES.

ACCORDINGLY, THE STATE CANNOT BENEFIT YEARS LATER TRYING TO APPLY (NRS 207.012) AND (NRS 200.400(4)) IN CR01-1336 AS NEITHER EXISTED WHEN THE (1993) OFFENSE OCCURRED.

ADDITIONALLY, THE (COA) OVERLOOKED APPELLANTS "SPECIFIC" REQUEST TO RULE ON THE MERITS OF WHETHER THOSE "RETROACTIVE" CHANGES ARGUED REGARDING NRS 207.012 AND NRS 200.400 CONSTITUTED AN ILLEGAL INDICTMENT VARIANCE? see pg. 8 OF APPELLANTS INFORMAL BRIEF.

LASTLY, APPELLANT WOULD MOVE THE COURT TO TAKE JUDICIAL NOTICE THAT NRS 207.012 WAS ENACTED OCTOBER 1, 1997 - CLEARLY SUBSEQUENT TO THE (1993) OFFENSE, (1994) INDICTMENT OF SAME, AND (1996) CONVICTION OF THE SAME.

THE SECOND JUDGMENT IN IN CR94-1122 pg. 38 PRESENTED AS EXHIBIT (3) IN MOTION TO VACATE ILLEGAL SENTENCE (FILED 8-26-2021) CLEARLY SHOWS THE CRIME ENUMERATED TO BE "A VIOLATION OF NRS 200.400, A FELONY", THAT JUDGMENT WAS EXPIRED IN 2000, AND THE STATE MAY NOT ALTER THE INDICTMENT AND SECOND JUDGMENT FOR THE PURPOSE OF MAKING IT FIT INTO NRS 207.012 SECTION 2 AND STRIKING OUT APPELLANT, MINUS THE STATES ALTERATION OF THE (1994) INDICTMENT AND THE SECOND JUDGMENT, APPELLANT DOES NOT QUALIFY TO BE A HABITUAL FELON PURSUANT TO NRS 207.012 SECTION 2.

RESPECTFULLY SUBMITTED THIS 19 DAY OF MAY 2022

David Steinhart #73657
IN PROPER PERSON

CERTIFICATE OF SERVICE

I, DAVID STEINSHAWER certify that on this date I did serve a true and correct copy of the foregoing Motion upon the Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid and addressed to:

WASHOE COUNTY DISTRICT ATTORNEY
1 SOUTH SIERRA STREET
RENO, NV 89501

AND

NEVADA COURT OF APPEALS
OFFICE OF THE CLERK
201 S. CARSON STREET, Suite 201
CARSON CITY, NV 89701

Dated this 19 day of MAY, 2022