

Steven D. Grierson

Craig Rodgers
In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018

Electronically Filed
Jun 06 2022 03:42 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLACK

Craig Rodgers

Plaintiff,

vs.

William Hutchings, warden
State of Nevada
Defendant.

Case No. A-20-820408-2

Dept. No. 22

Docket _____

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,

Craig Rodgers, in and through his proper person, hereby
appeals to the Supreme Court of Nevada from the ORDER denying and/or
dismissing the

Amended Petition for writ of habeas corpus

ruled on the 17 day of May, 2022.

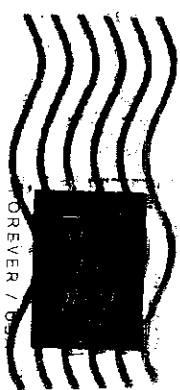
Dated this 25th day of May, 2022.

Respectfully Submitted,

an

Circus Rodas
TL VCC
R. O'Brien
Andis Springs NV 89070

LAS VEGAS NV 890
26 MAY 2022 PM 3 L



Steven Grimes
Clerk of the Clerk
200 Lewis Ave 3rd Floor
Las Vegas, NV 89155

22-56-5

Southern Basin
Correctional Center
MAY 26 2022
OUTGOING MAIL



1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 CRAIG RODGERS,

10 Plaintiff(s),

11 vs.

12
13 WILLIAM HUTCHINGS, WARDEN; STEVEN B.
14 WOLFSON, DISTRICT ATTORNEY; STATE OF
NEVADA,

15 Defendant(s),

Case No: A-20-820408-W

Dept No: XXII

16
17
18 **CASE APPEAL STATEMENT**

19 1. Appellant(s): Craig Rodgers

20 2. Judge: Susan Johnson

21 3. Appellant(s): Craig Rodgers

22 Counsel:

23 Craig Rodgers #1221816
24 P.O. Box 208
25 Indian Springs, NV 89070

26 4. Respondent (s): William Hutchings, Warden; Steven B. Wolfson, District Attorney; State of
27 Nevada

28 Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89155-2212

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

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

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

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

8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, September 9, 2020
***Expires 1 year from date filed* (Expired)
Appellant Filed Application to Proceed in Forma Pauperis: Yes,
Date Application(s) filed: October 21, 2020

9. Date Commenced in District Court: August 31, 2020

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

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

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79714, 81533, 82108, 82645, 83301, 83517, 83816,
84718

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 3 day of June 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Craig Rodgers

Steven D. Grierson

Craig's Rodgers, 122/816
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

Craig's Rodgers
Plaintiff,
vs.
William Hutchins
Defendant.
State of Nevada

CASE No. A-20-820408-W
DEPT.No. 22

DESIGNATION OF RECORD ON APPEAL

TO:

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

DATED this 25th day of May, 2022.

RESPECTFULLY SUBMITTED BY:

Craig's Rodgers
Craig's Rodgers #122/816
Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, Chris Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 25th
day of May, 2022 I mailed a true and correct copy of the foregoing, "Notice of appeal"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Steven Svenson
200 Lewis ave 3rd F1008
L93 Vegas, NV 89155

Steve Wolfson
200 Lewis ave
L93 Vegas NV 89155-2212

CC:FILE

DATED: this 25 day of May, 2022.

Chris Rodgers #1221816
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of appeal
(Title of Document)

filed in District Court Case number A-26-820408-W

☒ Does not contain the social security number of any person.

-OR-


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

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

(State specific law)

-or-

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


Signature

5-24-22
Date

Craig Rodgers
Print Name

Title

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-820408-W

Craig Rodgers, Plaintiff(s)

vs.

William Hutchings Warden, Defendant(s)

§
§
§
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§
§
§
§

Location: **Department 22**
 Judicial Officer: **Johnson, Susan**
 Filed on: **08/31/2020**
 Cross-Reference Case Number: **A820408**
 Defendant's Scope ID #: **1680324**
 Supreme Court No.: **82108**
82645
83517

CASE INFORMATION

Related Cases

C-16-314359-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Statistical Closures

05/17/2022 Involuntary Dismissal
 02/18/2021 Stipulated Dismissal

Case Status: **05/17/2022 Dismissed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-820408-W
 Court Department 22
 Date Assigned 08/31/2020
 Judicial Officer Johnson, Susan

PARTY INFORMATION

Plaintiff

Rodgers, Craig

Lead Attorneys

Pro Se

Defendant

State of Nevada

Removed: 03/05/2021
 Dismissed

Rose, Steven
Retained

Steven B Wolfson District Attorney

Removed: 03/05/2021
 Dismissed

William Hutchings Warden

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

08/31/2020



Inmate Filed - Petition for Writ of Habeas Corpus

Party: Plaintiff Rodgers, Craig

[1] Petition for Writ of Habeas Corpus (Post-Conviction)

08/31/2020



Ex Parte Motion

Filed By: Plaintiff Rodgers, Craig

[2] Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing

08/31/2020



Application to Proceed in Forma Pauperis















[3] Application to Proceed Informa Pauperis (Confidential)

09/09/2020














Order to Proceed In Forma Pauperis

CASE SUMMARY
CASE NO. A-20-820408-W

	Granted for: Plaintiff Rodgers, Craig <i>[4] Order to Proceed in Forma Pauperis (Confidential)</i>
09/09/2020	 Order for Petition for Writ of Habeas Corpus <i>[5]</i>
10/21/2020	 Application to Proceed in Forma Pauperis <i>[6] Application to Proceed Informa Pauperis (Confidential)</i>
10/21/2020	 Ex Parte Motion Filed By: Plaintiff Rodgers, Craig <i>[7] Ex Parte Motion for the Appointment of Counsel Request for Evidentiary Hearing</i>
10/26/2020	 Motion Filed By: Plaintiff Rodgers, Craig <i>[8] Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference</i>
10/27/2020	 Order Granting Motion <i>[9] Order Granting Petitioner's Motion for Appearance by Telephone or Video Conference</i>
10/27/2020	 Order Denying Motion <i>[10] Order Denying Petitioner's Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
11/10/2020	 Notice of Appeal (Criminal) <i>[11] Notice of Appeal</i>
11/12/2020	 Case Appeal Statement Filed By: Plaintiff Rodgers, Craig <i>[12]</i>
12/08/2020	 Motion for Appointment of Attorney Filed By: Plaintiff Rodgers, Craig <i>[13] Motion to Appoint Counsel</i>
12/08/2020	 Clerk's Notice of Hearing <i>[14] Notice of Hearing</i>
12/24/2020	 Order Denying Motion Filed By: Plaintiff Rodgers, Craig <i>[15] Order Denying Petitioner's Motion to Appoint Counsel</i>
12/30/2020	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[16] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
12/31/2020	 Response <i>[17] State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction)</i>
01/05/2021	 Clerk's Notice of Hearing <i>[18] Notice of Hearing</i>















CASE SUMMARY
CASE NO. A-20-820408-W

01/19/2021	 Certificate of Service Filed by: Defendant State of Nevada <i>[19]</i>
02/04/2021	 Motion Filed By: Plaintiff Rodgers, Craig <i>[20] Motion and Order for Transportation of Inmate for Court Appearance</i>
02/17/2021	 Request Filed by: Plaintiff Rodgers, Craig <i>[21] Request for Submission</i>
02/17/2021	 Reply Filed by: Plaintiff Rodgers, Craig <i>[22] Petitioners Reply to States Response and Motion to Dismiss Petition for Writ of Habeus Corpus (Post Conviction)</i>
02/18/2021	 Order to Statistically Close Case <i>[23] Civil Order to Statistically Close Case</i>
03/05/2021	 Findings of Fact, Conclusions of Law and Order <i>[24] Findings of Fact, Conclusions of Law, and Order</i>
03/08/2021	 Request Filed by: Plaintiff Rodgers, Craig <i>[25] Request for Submission</i>
03/08/2021	 Motion to Reconsider Filed By: Plaintiff Rodgers, Craig <i>[26] Motion for Reconsideration & Rehearing for Writ of Habeas Corpus</i>
03/10/2021	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant William Hutchings Warden <i>[27] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
03/15/2021	 Notice of Appeal Filed By: Plaintiff Rodgers, Craig <i>[30]</i>
03/15/2021	 Designation of Record on Appeal Filed By: Plaintiff Rodgers, Craig <i>[31]</i>
03/17/2021	 Notice of Appeal Filed By: Plaintiff Rodgers, Craig <i>[28]</i>
03/17/2021	 Designation of Record on Appeal Filed By: Plaintiff Rodgers, Craig <i>[29]</i>
03/18/2021	 Case Appeal Statement Filed By: Plaintiff Rodgers, Craig <i>[32]</i>

CASE SUMMARY
CASE NO. A-20-820408-W

03/18/2021	 Case Appeal Statement Filed By: Plaintiff Rodgers, Craig <i>[33]</i>
03/29/2021	 Request Filed by: Plaintiff Rodgers, Craig <i>[34] Request for Submission "Hearing Requested"</i>
03/29/2021	 Motion to Reconsider Filed By: Plaintiff Rodgers, Craig <i>[35] Motion for Reconsideration & Rehearing for Writ of Habeas Corpus "Hearing Requested"</i>
03/29/2021	 Notice of Motion Filed By: Plaintiff Rodgers, Craig <i>[36]</i>
03/29/2021	 Clerk's Notice of Hearing <i>[37] Notice of Hearing</i>
04/22/2021	 Motion Filed By: Plaintiff Rodgers, Craig <i>[38] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
04/26/2021	 Opposition to Motion Filed By: Plaintiff Rodgers, Craig <i>[39] State's Opposition to Motion for Reconsideration</i>
04/27/2021	 Opposition <i>[40] State's Opposition to Motion for Reconsideration</i>
04/27/2021	 Order Denying Motion <i>[41] Order Denying Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus</i>
08/18/2021	 Motion Filed By: Plaintiff Rodgers, Craig <i>[42] Rule 60 (B) Motion</i>
08/18/2021	 Notice of Motion Filed By: Plaintiff Rodgers, Craig <i>[43] Notice of Motion</i>
08/18/2021	 Motion Filed By: Plaintiff Rodgers, Craig <i>[44] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
08/18/2021	 Clerk's Notice of Hearing <i>[45] Notice of Hearing</i>
08/27/2021	 Opposition

CASE SUMMARY
CASE NO. A-20-820408-W

	<i>[46] State's Opposition to Defendant's Rule 60(B) Motion</i>
09/14/2021	 Notice of Appeal Filed By: Plaintiff Rodgers, Craig <i>[47] Notice of Appeal</i>
09/14/2021	 Designation of Record on Appeal <i>[48] Designation of Record on Appeal</i>
09/16/2021	 Case Appeal Statement Filed By: Plaintiff Rodgers, Craig <i>[49] Case Appeal Statement</i>
09/21/2021	 Application to Proceed in Forma Pauperis <i>[50] Application to Proceed in Forma Pauperis</i>
10/28/2021	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[51] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
12/01/2021	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[52] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Reversed and Remand</i>
12/23/2021	 Amended Petition Filed By: Plaintiff Rodgers, Craig <i>[53] Amended Petition for Writ of Habeas Corpus (Post Conviction)</i>
12/23/2021	 Motion Filed By: Plaintiff Rodgers, Craig <i>[54] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
02/09/2022	 Clerk's Notice of Hearing <i>[55] Clerk's Notice of Hearing</i>
02/18/2022	 Ex Parte Motion Filed By: Plaintiff Rodgers, Craig <i>[56] Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
02/18/2022	 Motion Filed By: Plaintiff Rodgers, Craig <i>[57] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone</i>
03/10/2022	 Notice of Hearing <i>[58] Instructions for BlueJeans Videoconferencing</i>
05/17/2022	 Order Denying Motion <i>[59] Order Denying Petitioner Craig Rodgers' Amended Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/18/2022	 Notice of Entry of Order <i>[60] Notice of Entry of Order</i>

CASE SUMMARY
CASE NO. A-20-820408-W

05/31/2022



Notice of Appeal
[61] Notice of Appeal

05/31/2022



Designation of Record on Appeal
[62] Designation of Record on Appeal

06/03/2022



Case Appeal Statement
Case Appeal Statement

DISPOSITIONS

12/30/2020

Clerk's Certificate (Judicial Officer: Johnson, Susan)
Debtors: Craig Rodgers (Plaintiff)
Creditors: William Hutchings Warden (Defendant), Steven B Wolfson District Attorney (Defendant), State of Nevada (Defendant)
Judgment: 12/30/2020, Docketed: 01/14/2021
Comment: Supreme Court No. 82108 Appeal Dismissed

03/05/2021

Order of Dismissal (Judicial Officer: Johnson, Susan)
Debtors: William Hutchings Warden (Defendant), Steven B Wolfson District Attorney (Defendant), State of Nevada (Defendant)
Creditors: Craig Rodgers (Plaintiff)
Judgment: 03/05/2021, Docketed: 03/09/2021

10/28/2021

Clerk's Certificate (Judicial Officer: Johnson, Susan)
Debtors: Craig Rodgers (Plaintiff)
Creditors: William Hutchings Warden (Defendant)
Judgment: 10/28/2021, Docketed: 10/28/2021
Comment: Supreme Court No 83517 - "APPEAL DISMISSED"

HEARINGS

12/21/2020



Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan)
Minute Order - No Hearing Held;
Journal Entry Details:
Having examined Petitioner's Motion to Appoint Counsel filed December 8, 2020, noted this Court previously denied Petitioner's Ex Parte Motion to Appoint Counsel as set forth within its Order filed October 27, 2020, and further, the second motion filed December 8, 2020 was not served upon Defendants, and there is good cause therefore, COURT ORDERS Petitioner's (second) Motion to Appoint Counsel filed December 8, 2020 is DENIED. The matter scheduled to be heard Tuesday, January 12 2021 at 8:30 a.m. is VACATED. Defense counsel is to prepare and submit a proposed Order to the Court within fourteen (14) days of this Minute Order or no later than Monday, January 4, 2021 pursuant to EDCR 7.21. CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service, facsimile and/or mail. kc//12-21-20;

01/07/2021

Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Johnson, Susan)
01/07/2021, 02/04/2021
Continued;
Denied;
Continued;
Denied;





01/07/2021

Motion to Dismiss (9:00 AM) (Judicial Officer: Johnson, Susan)
01/07/2021, 02/04/2021
State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post Conviction)
Continued;
Motion Granted;
Continued;
Motion Granted;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-820408-W

01/07/2021	 All Pending Motions (9:00 AM) (Judicial Officer: Johnson, Susan) Matter Heard; Journal Entry Details: <i>PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court reviewed the procedural history of the case. State advised it would submit on the pleadings if the Court was to make a ruling today. COURT ORDERED, matter CONTINUED 30 days for Mr. Rodgers to either reply to the State's Response or to arrange his appearance at the next court date. CONTINUED TO 02/04/2021 - 9:00 AM CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816, P.O. Box 208, Indian Springs, NV 89070 kc/1/7/21;</i>
01/12/2021	CANCELED Motion (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Vacated Plaintiff's Motion for Appointment of Counsel</i>
02/04/2021	 All Pending Motions (9:00 AM) (Judicial Officer: Johnson, Susan) Matter Heard; Journal Entry Details: <i>PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court advised Mr. Rodgers did not do what was requested of him at the last hearing; he did not file a response and he did not make an attempt to appear today and make oral arguments. Mr. Rose advised he sent an additional copy of their Response to Mr. Rodgers, along with a certificate of service. COURT ORDERED, Petition DENIED; Motion GRANTED. Mr. Rose to prepare findings of fact and conclusions of law. CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816. PO Box 208, Indian Springs, NV 89070 kc/2/4/21;</i>
04/29/2021	CANCELED Motion to Reconsider (9:00 AM) (Judicial Officer: Johnson, Susan) <i>Vacated Plaintiff's Motion for Reconsideration & Rehearing for Writ of Habeas Corpus</i>
08/26/2021	 Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan) <i>Rule 60 (B) Motion Minute Order - No Hearing Held; Journal Entry Details: Having examined Petitioner's "Rule 60(B) Motion" and Motion for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference, both filed August 18, 2021, noted this Court previously decided the same issues raised in the current "Rule 60(B) Motion" as set forth within its Order Denying Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus filed April 27, 2021, and there is good cause therefore, COURT ORDERS Petitioner's "Rule 60(B) Motion" filed August 18, 2021 is DENIED for the same reasons set forth within this Court's April 27, 2021 Order. Petitioner's Motion for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference filed August 18, 2021 is DENIED as MOOT. The matter scheduled to be heard Tuesday, September 21, 2021 at 8:30 a.m. is VACATED. CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816. PO Box 208, Indian Springs, NV 89070.;</i>
09/21/2021	CANCELED Motion (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Vacated Rule 60 (B) Motion</i>
03/15/2022	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Amended Petition for Writ of Habeas Corpus Denied; Journal Entry Details: Appearances made via BlueJeans Videoconferencing Application: Craig Rogers. Court stated no appearance was made on behalf of the State. Arguments by Craig Rogers. COURT ORDERED, Amended Petition for Writ of Habeas Corpus UNDER ADVISEMENT.;</i>

CASE SUMMARY

CASE NO. A-20-820408-W

DISTRICT COURT CIVIL COVER SHEET **A-20-820408-W**

County, Nevada

Dept. 22

Case No. _____
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Craig Rodgers	Defendant(s) (name/address/phone): William Hutchings, Warden Steven B Wolfson, District Attorney State of Nevada
Attorney (name/address/phone):	Attorney (name/address/phone):

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

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

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

08/31/20

Date

Prepared by clerk

Signature of initiating party or representative

See other side for family-related case filings.

1 ODM

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 CRAIG RODGERS, #1680324,

Case No. A-20-820408-W

6
7 Petitioner,

Dept. No. XXII

8 Vs.

9 WILLIAM HUTCHINGS, Warden;
10 STEVEN B. WOLFSON, District
11 Attorney; and THE STATE OF NEVADA,

12 Respondents.

13 ORDER DENYING PETITIONER CRAIG RODGERS' AMENDED PETITION FOR WRIT
14 OF HABEAS CORPUS (POST-CONVICTION)

15 On March 5, 2021, this Court issued its Findings of Fact, Conclusions of Law and Order
16 which denied Petitioner's Petition for Writ of Habeas Corpus (Post Conviction) filed August 31,
17 2020 upon the basis it was untimely filed or filed outside the time frame outlined in NRS 34.726(1)
18 ("...a petition that challenges the validity of a judgment or sentence must be filed within 1 year of
19 the entry of the judgment of conviction..."). On November 5, 2021, the Nevada Court of Appeals
20 issued its Order of Reversal and Remand, noting, although the Petition for Writ of Habeas Corpus
21 was filed outside the one-year limit set forth by NRS 34.726(1), it was received by the Court Clerk's
22 Office within the pertinent time frame; it was the Clerk's responsibility to file the submitted
23 documents. This Court's judgment was reversed and the matter remanded for proceedings
24 consistent with the appellate court's order. The case was remitted to this Court on December 1,
25 2021.

26 ...
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1 Thereafter, on December 23, 2021, MR. RODGERS filed his Amended Petition for Writ of
2 Habeas Corpus (Post Conviction).

3 On March 15, 2022, this Court scheduled MR. RODGERS' Amended Petition for Writ of
4 Habeas Corpus (Post Conviction) for hearing. Respondents made no appearance and did not oppose
5 MR. RODGERS' Amended Petition. Having reviewed the papers and pleadings on file herein,
6 heard MR. RODGERS' oral arguments and taken this matter under advisement, this Court makes the
7 following Findings of Fact and Conclusions of Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. On April 22, 2016, by way of Information, Petitioner CRAIG RODGERS was
11 charged with committing the crimes of:

12 a. Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm
13 (Category B Felony) in violation of NRS 200.481;

14 b. False Imprisonment with Use of a Deadly Weapon (Category B Felony) in
15 violation of NRS 200.460;

16 c. First Degree Kidnapping with Use of a Deadly Weapon Resulting in Bodily
17 Harm (Category A Felony) in violation of NRS 200.320 and 193.165);

18 d. Mayhem with Use of a Deadly Weapon (Category B Felony) in violation of
19 NRS 200.280 and 193.165; and
20

21 e. Robbery (Category B Felony) in violation of NRS 200.230,
22 all stemming from incidents that allegedly took place on or about March 6, 2015 in Clark County,
23 Nevada and involving the victim, ANTOINETTE MARTINEZ. *See* Information filed in State v.
24 Craig Rodgers, Case No. C-16-314359-1. MR. RODGERS was appointed legal counsel through the
25 Public Defenders' Office. On November 28, 2016, the STATE filed its Notice of Intent to Seek
26 Punishment as a Habitual Criminal.
27
28

1 2. On June 5, 2017, the Public Defenders' Office filed a Motion to Withdraw as MR.
2 RODGERS' Counsel based upon conflict of interest in that this office had previously represented
3 MS. MARTINEZ in an unrelated matter in or about 2012. The Motion to Withdraw was granted
4 and the Special Public Defenders' Office was confirmed as counsel for MR. RODGERS on June 12,
5 2017. Less than six months later, on December 6, 2017, the Special Public Defenders' Office filed
6 its Motion for Withdrawal of Counsel claiming a deterioration of the attorney-client relationship
7 between it and MR. RODGERS. The Motion was granted on January 3, 2018 and ADAM GILL,
8 ESQ. was appointed and confirmed as MR. RODGERS' third defense counsel.

10 3. On July 13, 2018, three days before trial was to commence,¹ July 16, 2018, the
11 STATE filed an Amended Information, removing the second count of False Imprisonment. On the
12 second day of jury *voir dire* and pursuant to plea negotiations, the STATE filed a Second Amended
13 Information, charging MR. RODGERS with committing only two of the original crimes, i.e. First
14 Degree Kidnapping (Category A Felony) in violation of NRS 200.310 and 200.320) and Mayhem
15 (Category B Felony) in violation of NRS 200.280 given plea negotiations between the parties. MR.
16 RODGERS signed the Guilty Plea Agreement which was filed the same day, July 17, 2018. This
17 Court canvassed MR. RODGERS regarding his guilty plea to ensure it was entered into freely and
18 voluntarily. *See* Transcript of July 17, 2018 Hearing filed August 13, 2018 in Case No. C-16-
19 314359-1. As it was satisfied MR. RODGERS was pleading guilty freely and voluntarily, this
20 Court accepted this Defendant's guilty plea and scheduled the matter for sentencing.

23 4. On August 7, 2018, MR. RODGERS filed a Motion to Appoint Alternate Counsel as
24 he desired to withdraw his guilty plea. On August 14, 2018, this Court granted MR. RODGERS'
25 motion and appointed JOHN PARRIS, ESQ. to review the case; MR. PARRIS confirmed as MR.
26 RODGERS' fourth defense lawyer on August 28, 2018. On September 6, 2018, the STATE advised

28 ¹The trial had been scheduled and vacated six (6) times before it actually commenced on July 16, 2018.

1 the Court it stipulated to MR. RODGERS' withdrawal of his guilty plea. Given that stipulation, this
2 Court allowed MR. RODGERS to withdraw his guilty plea.

3 5. Approximately one year later, August 5, 2019, just prior to the jury trial commencing,
4 the STATE requested the Second Amended Information be stricken as MR. RODGERS withdrew
5 his guilty plea and thus, the parties' negotiated settlement was not consummated. The Second
6 Amended Information was stricken, resulting in the Amended Information filed July 13, 2018 which
7 contained all prior counts, except for False Imprisonment, being the operative pleading. During
8 second day of jury *voir dire*, August 6, 2019, the parties again entered into plea negotiations
9 resulting in the STATE filing, *anew*, a Second Amended Information charging MR. RODGERS with
10 committing the crimes of Second Degree Kidnapping (Category B Felony) in violation of NRS
11 200.310 and 200.320, Robbery (Category B Felony) in violation of NRS 200.230, Mayhem
12 (Category B Felony) in violation of NRS 200.380 and Pandering (Category C Felony) in violation of
13 NRS 201.300(1). With his lawyer, MR. RODGERS reviewed and signed the Guilty Plea Agreement
14 which was filed that same day. This Court again canvassed MR. RODGERS to ensure his plea was
15 made freely and voluntarily, and thereafter, accepted his guilty plea. After the guilty plea was
16 accepted by the Court, the STATE moved for sentencing to go forward that day; that motion was not
17 opposed by MR. RODGERS. The STATE advised the Presentence Investigation Report (PSI) had
18 been previously completed although it contained an error. On page 4 of the PSI, under "Adult,
19 Arrest Date of April 20, 2001," it was stated MR. RODGERS had been convicted when, actually,
20 the matter was given treatment under NRS 453.3363, MR. RODGERS had received an honorable
21 discharge from probation and case was dismissed. To correct the error, the STATE moved for and
22 this Court ordered the 2001 conviction be stricken from the PSI. See Stockmeier v. State Board of
23 Parole Commissioners, 127 Nev. 243, 255 P.3d 209 (2011). Notably, this correction was also
24 included within the Judgment of Conviction that was later filed on August 23, 2019.
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1 MR. RODGERS was adjudged guilty of committing Count I, Second Degree Kidnapping;
2 Count 2, Robbery; Count 3, Mayhem; and Count 4, Pandering. In addition to the \$25
3 Administrative Assessment Fee and \$3 DNA Collection Fee, MR. RODGERS was sentenced to
4 serve as to:

5 Count 1 to a minimum of forty-eight (48) months and a maximum of one hundred eighty
6 (180) months;

7
8 Count 2 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
9 be served consecutively to that imposed in Count 1;

10 Count 3 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
11 be served concurrently to that imposed in Count 2;

12 Count 4 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
13 be served concurrently to that imposed in Count 3,
14 all within the Nevada Department of Corrections (NDOC), with 1,218 days credit for time served.
15 The total aggregate sentence was a minimum of seventy-two (72) months and a maximum of two
16 hundred forty (24) months. As there remained issues regarding restitution and other possible
17 corrections that needed to be made to the PSI, a hearing was scheduled for August 20, 2019 at 8:30
18 a.m. See Reporter's Transcript of Hearing: Jury Trial, Day 2, August 6, 2019 filed April 1, 2022 in
19 Case No. C-16-314359-1.
20

21
22 6. On August 20, 2019, the STATE represented it would not be requesting restitution
23 from MR. RODGERS. Other corrections and/or changes were made to the PSI at MR. RODGERS'
24 request pursuant to Stockmeier. The section on page 1, under II, titled "Charge Information," that
25 contained on page 7, under IX titled "Plea Negotiations" and the recommendation in Section X to
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27 ...

28 ...

1 delete Count 1 were stricken.² As the corrections to the PSI had been made and MR. RODGERS'
2 concerns were addressed, the Judgment of Conviction was filed August 23, 2019.

3 7. MR. RODGERS filed his Notice of Appeal on September 24, 2019. On November
4 25, 2019, the Nevada Supreme Court dismissed the appeal as untimely.

5 8. MR. RODGERS has filed an Amended Petition for Writ of Habeas Corpus (Post
6 Conviction), asserting eleven (11) grounds for relief:

7
8 *First*, his defense counsel, MR. PARRIS, was ineffective as he failed to file the Notice of
9 Appeal timely in violation of the Sixth Amendment to the United States Constitution.

10 *Second*, MR. RODGERS was denied due process when the district court failed to toll the
11 timeliness of appeal in violation of the Fifth and Fourteenth Amendments.

12 *Third*, his appellate counsel was ineffective for failing to raise on appeal MR. RODGERS
13 was denied effective assistance of counsel at the preliminary hearing due to conflict of interest in
14 violation of the Sixth Amendment.

15
16 *Fourth*, MR. RODGERS was denied effective assistance of counsel when the district court
17 denied his Motion to Remand for New Preliminary Hearing, or in the alternative, Motion to Dismiss
18 Due to Prior Counsel's Conflict of Interest in violation of the Sixth Amendment.

19 *Fifth*, MR. RODGERS was denied effective assistance of counsel when MR. PARRIS
20 withheld information from him to convince him to plead guilty in violation of the Sixth Amendment.
21

22 *Sixth*, MR. RODGERS was denied effective assistance of counsel when his attorney misled
23 him regarding the defense expert witness' availability for trial in violation of the Sixth Amendment.

24 *Seventh*, MR. RODGERS was denied due process when the district court refused to allow
25 him to withdraw his guilty plea a second time when the plea was made and based upon withheld
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²Also see Recorder's Transcript of Hearing Re: All Pending Motions dated August 20, 2019, pp. 21-22, filed
April 11, 2022 in Case No. C-16-314359-1.

1 information, evidence and issues surrounding the PSI in violation of his Fifth and Fourteenth
2 Amendments.

3 *Eighth*, MR. RODGERS was denied due process of law as the STATE failed to dismiss the
4 case pursuant to the Guilty Plea Agreement in violation of his Fifth and Fourteenth Amendments.

5 *Ninth*, counsel was ineffective for failing to challenge the Notice of Intent to Seek
6 Punishment as a Habitual Criminal in violation of the Sixth and Fourteenth Amendments.

7 *Tenth*, counsel was ineffective “constitutionally deficient in failing to advise me properly in
8 response to a potential sentence and time off at sentence and eligibility for parole” in violation of the
9 Sixth and Fourteenth Amendments.

10 *Eleventh*, counsel was ineffective for failing to challenge the Second Amended Plea
11 Agreement that contained a new improper charge which was in violation of his Fifth, Sixth and
12 Fourteenth Amendments.
13

14 **CONCLUSIONS OF LAW**

15
16 1. NRS 34.360 provides: “Every person unlawfully committed, detained, confined or
17 restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus
18 to inquire into the cause of such imprisonment or restraint.” Habeas corpus is an extraordinary
19 remedy and appropriate to test the legality of a conviction which is challenged upon constitutional
20 grounds. Shum v. Fogliani, 82 Nev. 156, 157, 413 P.2d 495, 496 (1966), *overruled on other*
21 *grounds*, Rahn v. Warden, 88 Nev. 429, 498 P.2d 1344 (1972). Here, MR. RODGERS has filed his
22 Amended Petition for Habeas Corpus upon the grounds he was denied his constitutional rights as
23 guaranteed by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and as
24 a consequence, his criminal conviction resulting therefrom was wrongful.
25

26 ...

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MR. RODGERS' Sixth Amendment Claims of Ineffective Assistance of Counsel

2. The Sixth Amendment to the United States Constitution specifically provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusations; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, *and to have the assistance of counsel for his defense.* (Emphasis added).

3. A fair trial is one in which evidence subject to adversarial testing is presented to an impartial tribunal for resolution of issues defined in advance of the proceeding. The right to counsel plays a critical role in the adversarial system embodied within the Sixth Amendment, as access to the lawyer's skill and knowledge is necessary to accord the defendant "ample opportunity to meet the case of the prosecution" to which he is entitled. Adams v. United States ex rel. McCann, 317 U.S. 269, 275-276, 63 S.Ct. 236, 240, 87 L.Ed. 268 (1942), *quoted by* Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 2063, 80 L.Ed.2d 674 (1984). Thus, an accused is entitled to be assisted by a lawyer, whether retained or appointed, who plays the role necessary to ensure the trial is fair. Strickland, 466 U.S. at 685, 104 S.Ct. at 2063, 80 L.Ed.2d 674. For that reason, the United States Supreme Court has recognized "the right to counsel is the right to *effective* assistance of counsel." *Id.*, *quoting* McMann v. Richardson, 397 U.S. 759, 771 n.14, 90 S.Ct. 1441, 1449 n.14, 25 L.Ed.2d 763 (1970) (Emphasis added).

4. MR. RODGERS must prove the factual allegations underlying his ineffective assistance claims by a preponderance of the evidence. *See* Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). His burden to show his lawyers' assistance was so defective as to require reversal of his convictions has two components or prongs: *First*, he must show his attorneys' performance was deficient; that is, he must demonstrate counsel made errors so serious the lawyer was not functioning as "counsel guaranteed MR. RODGERS under the Sixth Amendment. *Second*,

1 MR. RODGERS must show the deficient performance prejudiced his defense. That is, he must
2 show counsel's errors were so serious as to deprive him of a fair trial, or a trial with a reliable result.
3 Unless MR. RODGERS has made both showings, it cannot be said his conviction resulted from a
4 breakdown in the adversary process that renders the result unreliable. *Id.*, 466 U.S. at 687, 104 S.Ct.
5 at 2064, 80 L.Ed.2d 674. That is, this Court need not analyze both prongs of *Strickland* if MR.
6 RODGERS makes an insufficient showing on either one.

7
8 5. In order to eliminate the distorting effects of hindsight, courts indulge in a strong
9 presumption counsel's representation falls within the broad range of reasonable assistance. *Molina*
10 *v. State*, 120 Nev. 185, 190 87 P.3d 533, 537 (2004), *citing Kirksey v. State*, 112 Nev. 980, 987, 923
11 P.2d 1102, 1107 (1996).

12 6. When it considers the first prong set forth above, this Court notes "[e]ffective counsel
13 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of
14 competence demanded of attorneys in criminal cases.'" *Jackson v. Warden*, 91 Nev. 430, 432, 537
15 P.2d 473, 474 (1975). That is, "[a]n error by counsel, even if professionally unreasonable, does not
16 warrant setting aside the judgment of a criminal proceeding if the error had no effect on the
17 judgment." *Strickland*, 466 U.S. at 691, 104 S.Ct. 2066, 80 L.Ed.2d 674. Attorney errors come in
18 an infinite variety and are as likely to be harmless in a particular case as they are to be prejudicial.
19 *Id.*, 466 U.S. at 693, 104 S.Ct. at 2067, 80 L.Ed.2d 674. As noted by the United States Supreme
20 Court in *Strickland*, 466 U.S. at 693, 104 S.Ct. at 2067, 80 L.Ed. 674, "[r]epresentation is an art, and
21 an act or omission that is unprofessional in one case may be sound or even brilliant in another."

22 7. Considering the second prong, it is not enough for the defendant to show errors had
23 some conceivable effect on the outcome of the proceeding. Indeed, virtually every act or omission
24 of defense counsel would meet that test. *Id.* Not every error that conceivably could have influenced
25 the outcome undermines the reliability of the proceeding's result. The question is whether there is a
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1 reasonable probability, absent the errors, the fact-finder would have had a reasonable doubt
2 respecting guilt. Further, when the defendant challenges the sentence, the question is whether there
3 is a reasonable probability, the sentence—including the appellate court, to the extent it
4 independently reweighs the evidence—would have concluded the balance of the aggravating and
5 mitigating circumstances did not warrant the particular sentence. *Id.*, 466 U.S. at 695, 104 S.Ct. at
6 2068-2069.

7
8 MR. RODGERS' First Ground—Ineffective Assistance of Counsel

9 8. MR. RODGERS claims his fourth-appointed attorney, JOHN P. PARRIS, ESQ., was
10 ineffective as he failed to timely file the Notice of Appeal—it was filed two days after the deadline
11 set forth in Rule 4(b)(1)(A) of the Nevada Rules of Appellate Procedure (NRAP). The question here
12 is, but for the error, was it likely the appeal would have resulted in overturning the Judgment of
13 Conviction. The only bases MR. RODGERS identified within his Amended Petition to support the
14 appeal are (1) he and MR. PARRIS had a contentious relationship to the point he (RODGERS) filed
15 a motion to dismiss his counsel in July 2019,³ and (2) MR. PARRIS misinformed him regarding the
16 availability of the material witness, MS. MARTINEZ, to testify at the trial; if he had known she was
17 not in custody on the material witness warrant and unavailable to testify, MR. RODGERS would not
18 have pled guilty and would have insisted the trial continue. In this Court's view, MR. RODGERS
19 did not provide any adequate basis to demonstrate, but for MR. PARRIS' error, the filing of a timely
20 appeal, more probably than not, would have resulted in a reversal of his conviction. While he claims
21 his rapport with MR. PARRIS was contentious, the record shows MR. RODGERS had a
22 disagreeable relationship with all four lawyers who had been appointed to represent him. Most
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26
27 ³MR. RODGERS filed several motions to dismiss his attorneys. The first was filed July 18, 2016 when he
28 moved for dismissal of JEREMY WOOD, ESQ. of the Public Defenders' Office. The second was filed April 24, 2017
when, again, he moved to dismiss MR. WOOD. A Motion to Appoint Alternate Counsel was filed August 7, 2018 about
three (3) weeks after MR. RODGERS pled guilty to committing the crimes set forth in the now-stricken Second
Amended Information. A fourth Motion to Withdraw as Counsel was filed January 10, 2019.

1 certainly, this Court's decision not to discharge the fourth lawyer is insufficient ground to reverse
2 the Judgment. Further, whether MR. PARRIS misinformed or withheld information from MR.
3 RODGERS regarding a material witness warrant is, at best, a red herring as the victim, MS.
4 MARTINEZ, ultimately was available to testify and would have testified if the trial had ensued.
5 Contrary to MR. RODGERS' perception, the fact MS. MARTINEZ did not want to testify does not
6 equate to being unavailable or unwilling to testify. MR. RODGERS made the decision to plead
7 guilty during jury *voir dire* having the correct information the victim would be present and testify at
8 trial. Additionally, it should not be lost MR. RODGERS freely and voluntarily admitted his guilt to
9 committing the crimes as signified within his signed Guilty Plea Agreement filed August 9, 2019
10 and his answers to the Court's canvass. MR. RODGERS' Amended Petition for Writ of Habeas
11 Corpus is denied as it seeks overturning the judgment of conviction based upon Ground One or MR.
12 PARRIS' alleged failure to timely file the appeal.
13

14
15 MR. RODGERS' Third Ground—Ineffective Assistance of Counsel

16 9. MR. RODGERS proposes his appellate counsel, MR. PARRIS, was ineffective as he
17 failed to raise on appeal Petitioner was denied effective assistance of counsel at the preliminary
18 hearing due to a conflict of interest. According to MR. RODGERS, the Public Defenders' Office
19 represented him from time of the preliminary hearing to "a few days before trial" ⁴when it was
20 discovered that office had previously represented the victim, MS. MARTINEZ, on a charge of
21 battery with use of a deadly weapon constituting domestic violence in 2012.⁵ It is unfortunate the
22 Public Defenders' Office did not discover the conflict of interest before the preliminary hearing.
23 However, within his Amended Petition, MR. RODGERS does not state how this later-discovered
24
25

26 ⁴According to the Court's record, a motion to withdraw due to conflict of interest was filed in June 2016; the
27 first trial was scheduled September 2016.

28 ⁵See Exhibit F attached to MR. RODGERS' Amended Petition for Writ of Habeas Corpus. While a criminal
complaint was filed in Justice Court, Las Vegas Township under Case No. 12F18766X, there is no record of the filing of
an Information or Indictment in the Eighth Judicial District Court, in and for Clark County, Nevada.

1 conflict resulted in his receiving ineffective assistance of counsel at a preliminary hearing where the
2 judge determines if probable cause exists to believe the defendant committed the crime. MR.
3 RODGERS does not identify how any errors made by his defense lawyer at the April 2016
4 preliminary hearing warrants setting aside the Judgment of Conviction entered after MR.
5 RODGERS pled guilty over three years later on August 23, 2019. In other words, while he makes
6 conclusory statements his appellate lawyer failed to raise the lack of effectiveness of his legal
7 representation at the preliminary hearing stage, MR. RODGERS does not state factually *how* such
8 conduct made counsel ineffective or *how* it affects the Judgment. MR. RODGERS' Amended
9 Petition for Writ of Habeas Corpus is denied as it seeks vacating the judgment of conviction based
10 upon Ground Three.
11

12 MR. RODGERS' Fourth Ground—Ineffective Assistance of Counsel
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14 **10.** MR. RODGERS argues he was denied effective assistance of counsel when the
15 district court denied his Motion to Remand for New Preliminary Hearing, or in the alternative,
16 Motion to Dismiss in 2017 due to prior counsel's conflict of interest in defending the victim, MS.
17 MARTINEZ, in a 2012 criminal matter and thereafter representing MR. RODGERS in the instant
18 case in 2016. Contrary to MR. RODGERS' misguided perception, a court's decision to deny a
19 motion to remand, or alternatively, motion to dismiss is the action of a judge, and does not, in any
20 way, suggest ineffectiveness of defense counsel. Further, it is a stretch to propose if it were not for
21 the court's "error" in denying the alternate motions in 2017, MR. RODGERS would not have pled
22 guilty to committing the crimes two years later on the second day of trial, August 6, 2019. MR.
23 RODGERS' Amended Petition for Writ of Habeas Corpus is denied as it seeks to set aside the
24 Judgment of Conviction based upon Ground Four.
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MR. RODGERS' Ground Five—Ineffective Assistance of Counsel

11. MR. RODGERS proposes he was denied effective assistance of counsel when his lawyer withheld information concerning witness availability in an effort to convince him to plead guilty. The “withheld” information was, supposedly, the Deputy District Attorney did not have the victim, MS. MARTINEZ, in custody on a material witness warrant. Further, MR. PARRIS was ineffective as he attempted to rush the plea bargaining process and sentence without properly reviewing the PSI or allowing MR. RODGERS to review the PSI. MR. RODGERS’ arguments lack credence for various reasons. *First*, contrary to MR. RODGERS’ assessment and as stated *supra*, MS. MARTINEZ was available and would have testified if the trial went forward. She may not have wanted to testify, but she was prepared to testify. According to MR. RODGERS, he made the decision to plead guilty given MS. MARTINEZ’S availability to testify. There was no withholding of information from MR. RODGERS with respect to the witness issue; that is, MR. PARRIS correctly informed his client MS. MARTINEZ would testify. *Second*, a lawyer is not “ineffective” when he does not review a PSI prior to his client entering a guilty plea. In fact, there are many instances where the PSI is not yet drafted when the criminal defendant pleads guilty. *Third*, notwithstanding the fact a lawyer is not “ineffective” when he does not review the PSI before the guilty plea is made by his client, the errors contained within the PSI were corrected on August 6 and 20, 2019. MR. RODGERS’ Amended Petition for Writ of Habeas Corpus is denied as it seeks overturning the Judgment of Conviction based upon Ground Five.

MR. RODGERS' Ground Six—Ineffective Assistance of Counsel

12. MR. RODGERS proposes MR. PARRIS was ineffective as he misled him concerning the availability of DR. NICHOLAS K. HAN, the victim’s attending physician, to testify at trial.⁶

⁶According to MR. RODGERS, DR. HAN was expected to testify he was MS. MARTINEZ’S attending physician, she was not attacked by a knife and the injury to her ear was consistent “with an ear ring.” He refers to

1 According to MR. RODGERS, DR. HAN could not be found, and for that reason, MR. PARRIS
2 represented the trial would be continued to December 2019. Thereafter, MR. RODGERS was told it
3 was the judge's decision not to continue the trial which had been scheduled for the eighth time in
4 August 2019. Given the unavailability of DR. HAN, MR. RODGERS claims he elected to plead
5 guilty to committing the crimes set forth within the Second Amended Information. Contrary to MR.
6 RODGERS' perception, MR. PARRIS' representation he would be seeking a continuance of the trial
7 due to witness unavailability is not ineffectiveness. Further, it was the Court's decision to maintain
8 the trial date after it had already been scheduled and rescheduled eight times. Notwithstanding that
9 premise, MR. RODGERS fails to indicate why DR. HAN, a local doctor, could not have been served
10 a subpoena to attend and testify at the trial. MR. RODGERS' Amended Petition for Writ of Habeas
11 Corpus is denied as it seeks to overturn the Judgment of Conviction based upon Ground Six.

12
13 MR. RODGERS' Ground Nine—Ineffective Assistance of Counsel

14
15 **13.** MR. RODGERS claims MR. PARRIS was ineffective for failing to challenge the
16 Notice of Intent to Seek Punishment as a Habitual Criminal. If he had done so, MR. PARRIS would
17 have learned the 2001 conviction was dismissed and the 2000 conviction from the State of
18 Oklahoma was for a misdemeanor and not a felony. MR. RODGERS' position lacks credence for at
19 least a couple of reasons. *First, and most obvious*, a review of the Judgment of Conviction filed
20 August 23, 2019 demonstrates MR. RODGERS was not punished as a habitual criminal. He was
21 convicted of committing four crimes and he was sentenced to serve the ranges of time identified
22 within the criminal statutes. MR. PARRIS' alleged error, i.e. failure to challenge the Notice, is
23 harmless. *Second*, and as set forth above, the information concerning the 2001 conviction was
24 corrected at the August 6, 2019 hearing to reflect MR. RODGERS was accorded treatment under
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26
27
28 Exhibit M attached to his Amended Petition for Writ of Habeas Corpus, but that document is the STATE'S Notice of
Intent to Seek Punishment as a Habitual Criminal.

1 NRS 453.3363, and ultimately, that matter was dismissed. Such correction was reflected within the
2 Judgment of Conviction as well as the PSI. Accordingly, MR. RODGERS' Amended Petition for
3 Writ of Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon
4 Ground Nine.

5 MR. RODGERS' Ground Ten—Ineffective Assistance of Counsel

6
7 14. MR. RODGERS proposes MR. PARRIS was ineffective as he failed to advise him
8 properly regarding the potential sentence, credit for time served and eligibility of parole. According
9 to MR. RODGERS, MR. PARRIS informed him if he pled guilty, he would be eligible to apply for
10 good time credits and reduce the minimum term of his sentence. Whether MR. PARRIS made such a
11 representation or error is not consequential for at least a couple of reasons. *First*, as shown by his
12 responses to the judge's canvass on August 6, 2019, MR. RODGERS understood any sentence
13 imposed would be as a result of the judge's decision and no one could promise him leniency,
14 probation or other special treatment. *Second*, as shown by the terms of the Guilty Plea Agreement
15 filed August 6, 2019 and signed by MR. RODGERS and his attorney, "[t]he parties stipulate to
16 jointly recommend an aggregate sentence of six (6) to twenty (20) years in the Nevada Department
17 of Corrections. The parties agree the plea is conditioned upon the Court accepting the negotiations.
18 The State agrees to dismiss case C316167 after rendition of sentence." MR. RODGERS also
19 acknowledged he had "not been promised or guaranteed any particular sentence by anyone." He
20 knew his "sentence is to be determined by the Court within the limits prescribed by statute." He also
21 understood if his "attorney or the State of Nevada or both recommend any specific punishment to the
22 Court, the Court is not obligated to accept the recommendation." Hence, assuming MR. PARRIS
23 failed to advise MR. RODGERS properly regarding the potential sentence, credit for time served
24 and eligibility of parole, such was harmless as MR. RODGERS was made aware by other sources as
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1 to his sentence set forth within the Judgment of Conviction. MR. RODGERS' Amended Petition for
2 Writ of Habeas Corpus is denied as it seeks to overturn the conviction based upon Ground Ten.

3 **MR. RODGERS' Fifth and Fourteenth Amendment Claims**

4 **15.** The Fifth Amendment to the United States Constitution states:

5 No person shall be held to answer for a capital, or otherwise infamous crime, unless on a
6 presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces,
7 or in the Militia, when in actual service in time of War or public danger; nor shall any person
8 be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be
9 compelled in any criminal case to be a witness against himself, nor be deprived of life,
liberty, or property, without due process of law; nor shall private property be taken for public
use, without just compensation.

10 **16.** Section 1 of the Fourteenth Amendment to the United States Constitution reads:

11 All persons born or naturalized in the United States and subject to the jurisdiction thereof, are
12 citizens of the United States and of the State wherein they reside. No State shall make or
13 enforce any law which shall abridge the privileges or immunities of citizens of the United
14 States; nor shall any State deprive any person of life, liberty or property, without due process
of law; nor deny to any person within its jurisdiction the equal protection of the laws.

15 **MR. RODGERS' Ground Two—Denial of Due Process**

16 **17.** MR. RODGERS claims he was denied due process as the district court failed to toll
17 the timeliness of the appeal in violation of the Fifth and Fourteenth Amendments to the United
18 States Constitution. Specifically, MR. RODGERS argues he gave "oral" notice of his intention to
19 appeal at the August 20, 2019 hearing, approximately three days before the Judgment of Conviction
20 was filed. In his view, as he gave oral notice of his intent to appeal prematurely, the notice must be
21 treated as filed after entry of the Judgment of Conviction. *See* NRAP 4(b)(2).
22

23 **18.** NRAP 4(b)(2) provides: "A notice of appeal filed after the announcement of a
24 decision, sentence or order—but before entry of the judgment or order—shall be treated as filed after
25 such entry and on the day thereof." In this case, MR. RODGERS may have orally indicated his
26 intention to appeal on August 20, 2019, but he did not file a Notice of Appeal before the Judgment
27 of Conviction was issued, and thus, the effect of NRAP(b)(2) is not triggered. The Notice of Appeal
28

1 was filed September 24, 2019, two days after the deadline for filing such notices under NRAP
2 4(b)(1)(A), and thus, from a jurisdictional standpoint, the filing was untimely. While MR.
3 RODGERS proposes the time for filing the Notice of Appeal should have been tolled given his oral
4 notice of intention to file an appeal, there is nothing contained within the Nevada Rules of Appellate
5 Procedure that supports such position; this Court did not deny MR. RODGERS due process by
6 allegedly failing to toll the timeliness of the appeal. MR. RODGERS' Amended Petition for Writ of
7 Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon Ground
8 Two.
9

10 MR. RODGERS' Ground Seven—Denial of Due Process

11 **19.** MR. RODGERS claims he was denied due process when this Court refused to allow
12 him to withdraw his guilty plea rendered August 6, 2019 based upon “withheld information,
13 evidence and issues surrounding the PSI” in violation of the Fifth and Fourteenth Amendments. As
14 noted above, part of the information allegedly withheld by MR. RODGERS' counsel was whether a
15 material witness warrant had been issued and the victim, MS. MARTINEZ, would be testifying at
16 the trial. Again, whether a material witness warrant was issued is a “red herring,” as MS.
17 MARTINEZ was available and willing to testify at the trial. Other withheld information concerned
18 the availability of DR. HAN, the victim's attending physician, resulting in defense counsel
19 requesting a trial continuance. The “withholding” of information did not result in MR. RODGERS
20 being denied due process.
21
22

23 **20.** MR. RODGERS also proposes he was denied due process as his attorney “attempted
24 to rush the plea bargaining process and sentence without properly reviewing a year-old PSI or
25 allowing Petitioner time to review the PSI with counsel.” As noted above, the PSI was reviewed in
26 open court on August 6 and 20, 2019 by all attorneys, MR. RODGERS and the Court. Additionally,
27 MR. RODGERS and his lawyer had a two-week time span to review the PSI between August 6 and
28

1 20. All corrections MR. RODGERS identified were made to the PSI on August 6 and 20, 2019.
2 Furthermore, a Supplemental PSI was filed November 22, 2021. To wit, MR. RODGERS was not
3 denied due process because the PSI was not properly reviewed. MR. RODGERS' Amended Petition
4 for Writ of Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon
5 Ground Seven.

6
7 MR. RODGERS' Ground Eight—Denial of Due Process

8 **21.** MR. RODGERS proposes he was denied due process as the STATE failed to dismiss
9 Case No. C-16-316167-1 pursuant to the Guilty Plea Agreement. Such statement is not true; Case
10 No. C-16-316167-1, the Information of which charged MR. RODGERS of (1) Sex Trafficking, (2)
11 Living From the Earnings of a Prostitute, (3) Battery with Use of a Deadly Weapon Constituting
12 Domestic Violence and (4) Sexual Assault, was dismissed August 6, 2019. Further, there were other
13 incentives accorded MR. RODGERS in exchange for his guilty plea. The Guilty Plea Agreement
14 entered in this matter also included the reduction of the Kidnapping accusation from First to Second
15 Degree, the removal of the original Battery and False Imprisonment crimes, the Use of Deadly
16 Weapon enhancement from the Robbery charge and inclusion of Pandering, the crime allegedly
17 inflicted upon a different victim, SAVANNAH TAYLOR.

18
19 **22.** Within his Amended Petition for Writ of Habeas Corpus, MR. RODGERS also
20 suggests the STATE comprised the Pandering charge within the Second Amended Information
21 without him being aware of its inclusion. That position, however, is not true. The Second Amended
22 Information was attached to the Guilty Plea Agreement reviewed and signed by MR. RODGERS
23 and his lawyer. MR. RODGERS was also canvassed by this Court concerning the charges contained
24 in the Second Amended Information:
25

26 THE COURT: Okay. Mr. Rodgers, have you received a copy of the second amended
27 information?
28

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. You understand, just so that we are all clear, that it is the second
3 amended information which was filed today is charging with Count 1, Second Degree
4 Kidnapping a Category B Felony in violation of NRS 200.310, 200.330. Count 2, Robbery,
5 a Category B Felony in violation of NRS 200.380, Mayhem which is Count 2, a Category B
6 Felony in violation of NRS 200.280 and Count 4, Pandering, a Category C Felony in
7 violation of NRS 201.300 subsection 1. Do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: How do you plead to those charges?

10 THE DEFENDANT: Guilty.

11 See Recorder's Transcript of Hearing Re: Jury Trial, Day 2 - August 6, 2019, pp. 7-8, filed April 11,
12 2022. MR. RODGERS was fully aware Count 4, Pandering, would be included within the charges
13 set forth in the Second Amended Complaint. Further, contrary to MR. RODGERS'
14 misrepresentations, the STATE did dismiss Case No. C-16-316167-1. MR. RODGERS' Amended
15 Petition for Writ of Habeas Corpus is denied as it seeks a reversal of the Judgment of Conviction
16 based upon Ground Eight.

17 **MR. RODGERS' Fifth, Sixth and Fourteenth Amendment Claims**

18 **MR. RODGERS' Ground Eleven—Denial of Due Process**

19 23. Lastly, MR. RODGERS claims his attorney, MR. PARRIS, was ineffective for failing
20 to challenge the Second Amended "Plea Agreement" that contained a "new improper charge" of
21 Pandering which violated his constitutional rights under Fifth, Sixth and Fourteenth Amendments to
22 the United States Constitution. MR. PARRIS, however, was not acting ineffectively for "failing" to
23 challenge the filing of the Second Amended Information and Guilty Plea Agreement as that was part
24 of the bargain MR. RODGERS entered. As noted above, MR. RODGERS was fully aware
25 Pandering was included as Count 4 of the Second Amended Information. The Second Amended
26 Information was attached to the Guilty Plea Agreement reviewed and signed by MR. RODGERS
27
28

1 and his lawyer before Petitioner was canvassed by the Court. MR. RODGERS testified to the Court
2 he knew he was being charged with committing the crimes set forth in Counts 1 through 4, and he
3 pled guilty to committing those crimes which included Pandering. *See* Recorder's Transcript of
4 Hearing Re: Jury Trial, Day 2 - August 6, 2019, pp. 7-8, filed April 11, 2022. MR. RODGERS'
5 Amended Petition for Writ of Habeas Corpus is denied as it seeks a reversal of the Judgment of
6 Conviction based upon Ground Eleven.

7
8 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

9 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Petitioner CRAIG
10 RODGERS' Amended Petition for Writ of Habeas Corpus filed December 23, 2021 is denied.

11
12 Dated this 17th day of May, 2022

13 

14 _____
SUSAN H. JOHNSON, DISTRICT COURT JUDGE

15 **AD9 8D1 125A 5F36**
16 **Susan Johnson**
17 **District Court Judge**
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Craig Rodgers, Plaintiff(s)

CASE NO: A-20-820408-W

7 vs.

DEPT. NO. Department 22

8 William Hutchings Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/17/2022

15 District Court Law Clerk

Dept22LC@clarkcountycourts.us

16
17 If indicated below, a copy of the above mentioned filings were also served by mail
18 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 5/18/2022

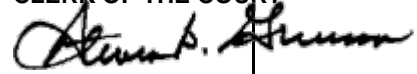
19 Craig Rodgers

Craig Rodgers #1221816

20 P.O. Box 208

21 Indian Springs, NV, 89070

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23
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27
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NEOJ

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CRAIG RODGERS,

Petitioner,

Case No: A-20-820408-W

Dept. No: XXII

vs.

WILLIAM HUTCHINGS, WARDEN; ET.AL.,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on May 17, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 18, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 18 day of May 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

☒ The United States mail addressed as follows:

Craig Rodgers # 1221816
P.O. Box 208
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

1 ODM

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 CRAIG RODGERS, #1680324,

Case No. A-20-820408-W

6
7 Petitioner,

Dept. No. XXII

8 Vs.

9 WILLIAM HUTCHINGS, Warden;
10 STEVEN B. WOLFSON, District
11 Attorney; and THE STATE OF NEVADA,

12 Respondents.

13 ORDER DENYING PETITIONER CRAIG RODGERS' AMENDED PETITION FOR WRIT
14 OF HABEAS CORPUS (POST-CONVICTION)

15 On March 5, 2021, this Court issued its Findings of Fact, Conclusions of Law and Order
16 which denied Petitioner's Petition for Writ of Habeas Corpus (Post Conviction) filed August 31,
17 2020 upon the basis it was untimely filed or filed outside the time frame outlined in NRS 34.726(1)
18 ("...a petition that challenges the validity of a judgment or sentence must be filed within 1 year of
19 the entry of the judgment of conviction..."). On November 5, 2021, the Nevada Court of Appeals
20 issued its Order of Reversal and Remand, noting, although the Petition for Writ of Habeas Corpus
21 was filed outside the one-year limit set forth by NRS 34.726(1), it was received by the Court Clerk's
22 Office within the pertinent time frame; it was the Clerk's responsibility to file the submitted
23 documents. This Court's judgment was reversed and the matter remanded for proceedings
24 consistent with the appellate court's order. The case was remitted to this Court on December 1,
25 2021.

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1 Thereafter, on December 23, 2021, MR. RODGERS filed his Amended Petition for Writ of
2 Habeas Corpus (Post Conviction).

3 On March 15, 2022, this Court scheduled MR. RODGERS' Amended Petition for Writ of
4 Habeas Corpus (Post Conviction) for hearing. Respondents made no appearance and did not oppose
5 MR. RODGERS' Amended Petition. Having reviewed the papers and pleadings on file herein,
6 heard MR. RODGERS' oral arguments and taken this matter under advisement, this Court makes the
7 following Findings of Fact and Conclusions of Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. On April 22, 2016, by way of Information, Petitioner CRAIG RODGERS was
11 charged with committing the crimes of:

12 a. Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm
13 (Category B Felony) in violation of NRS 200.481;

14 b. False Imprisonment with Use of a Deadly Weapon (Category B Felony) in
15 violation of NRS 200.460;

16 c. First Degree Kidnapping with Use of a Deadly Weapon Resulting in Bodily
17 Harm (Category A Felony) in violation of NRS 200.320 and 193.165);

18 d. Mayhem with Use of a Deadly Weapon (Category B Felony) in violation of
19 NRS 200.280 and 193.165; and
20

21 e. Robbery (Category B Felony) in violation of NRS 200.230,
22 all stemming from incidents that allegedly took place on or about March 6, 2015 in Clark County,
23 Nevada and involving the victim, ANTOINETTE MARTINEZ. *See* Information filed in State v.
24 Craig Rodgers, Case No. C-16-314359-1. MR. RODGERS was appointed legal counsel through the
25 Public Defenders' Office. On November 28, 2016, the STATE filed its Notice of Intent to Seek
26 Punishment as a Habitual Criminal.
27
28

1 2. On June 5, 2017, the Public Defenders' Office filed a Motion to Withdraw as MR.
2 RODGERS' Counsel based upon conflict of interest in that this office had previously represented
3 MS. MARTINEZ in an unrelated matter in or about 2012. The Motion to Withdraw was granted
4 and the Special Public Defenders' Office was confirmed as counsel for MR. RODGERS on June 12,
5 2017. Less than six months later, on December 6, 2017, the Special Public Defenders' Office filed
6 its Motion for Withdrawal of Counsel claiming a deterioration of the attorney-client relationship
7 between it and MR. RODGERS. The Motion was granted on January 3, 2018 and ADAM GILL,
8 ESQ. was appointed and confirmed as MR. RODGERS' third defense counsel.

10 3. On July 13, 2018, three days before trial was to commence,¹ July 16, 2018, the
11 STATE filed an Amended Information, removing the second count of False Imprisonment. On the
12 second day of jury *voir dire* and pursuant to plea negotiations, the STATE filed a Second Amended
13 Information, charging MR. RODGERS with committing only two of the original crimes, i.e. First
14 Degree Kidnapping (Category A Felony) in violation of NRS 200.310 and 200.320) and Mayhem
15 (Category B Felony) in violation of NRS 200.280 given plea negotiations between the parties. MR.
16 RODGERS signed the Guilty Plea Agreement which was filed the same day, July 17, 2018. This
17 Court canvassed MR. RODGERS regarding his guilty plea to ensure it was entered into freely and
18 voluntarily. *See* Transcript of July 17, 2018 Hearing filed August 13, 2018 in Case No. C-16-
19 314359-1. As it was satisfied MR. RODGERS was pleading guilty freely and voluntarily, this
20 Court accepted this Defendant's guilty plea and scheduled the matter for sentencing.

23 4. On August 7, 2018, MR. RODGERS filed a Motion to Appoint Alternate Counsel as
24 he desired to withdraw his guilty plea. On August 14, 2018, this Court granted MR. RODGERS'
25 motion and appointed JOHN PARRIS, ESQ. to review the case; MR. PARRIS confirmed as MR.
26 RODGERS' fourth defense lawyer on August 28, 2018. On September 6, 2018, the STATE advised

28 ¹The trial had been scheduled and vacated six (6) times before it actually commenced on July 16, 2018.

1 the Court it stipulated to MR. RODGERS' withdrawal of his guilty plea. Given that stipulation, this
2 Court allowed MR. RODGERS to withdraw his guilty plea.

3 5. Approximately one year later, August 5, 2019, just prior to the jury trial commencing,
4 the STATE requested the Second Amended Information be stricken as MR. RODGERS withdrew
5 his guilty plea and thus, the parties' negotiated settlement was not consummated. The Second
6 Amended Information was stricken, resulting in the Amended Information filed July 13, 2018 which
7 contained all prior counts, except for False Imprisonment, being the operative pleading. During
8 second day of jury *voir dire*, August 6, 2019, the parties again entered into plea negotiations
9 resulting in the STATE filing, *anew*, a Second Amended Information charging MR. RODGERS with
10 committing the crimes of Second Degree Kidnapping (Category B Felony) in violation of NRS
11 200.310 and 200.320, Robbery (Category B Felony) in violation of NRS 200.230, Mayhem
12 (Category B Felony) in violation of NRS 200.380 and Pandering (Category C Felony) in violation of
13 NRS 201.300(1). With his lawyer, MR. RODGERS reviewed and signed the Guilty Plea Agreement
14 which was filed that same day. This Court again canvassed MR. RODGERS to ensure his plea was
15 made freely and voluntarily, and thereafter, accepted his guilty plea. After the guilty plea was
16 accepted by the Court, the STATE moved for sentencing to go forward that day; that motion was not
17 opposed by MR. RODGERS. The STATE advised the Presentence Investigation Report (PSI) had
18 been previously completed although it contained an error. On page 4 of the PSI, under "Adult,
19 Arrest Date of April 20, 2001," it was stated MR. RODGERS had been convicted when, actually,
20 the matter was given treatment under NRS 453.3363, MR. RODGERS had received an honorable
21 discharge from probation and case was dismissed. To correct the error, the STATE moved for and
22 this Court ordered the 2001 conviction be stricken from the PSI. *See Stockmeier v. State Board of*
23 *Parole Commissioners*, 127 Nev. 243, 255 P.3d 209 (2011). Notably, this correction was also
24 included within the Judgment of Conviction that was later filed on August 23, 2019.
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1 MR. RODGERS was adjudged guilty of committing Count I, Second Degree Kidnapping;
2 Count 2, Robbery; Count 3, Mayhem; and Count 4, Pandering. In addition to the \$25
3 Administrative Assessment Fee and \$3 DNA Collection Fee, MR. RODGERS was sentenced to
4 serve as to:

5 Count 1 to a minimum of forty-eight (48) months and a maximum of one hundred eighty
6 (180) months;

7
8 Count 2 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
9 be served consecutively to that imposed in Count 1;

10 Count 3 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
11 be served concurrently to that imposed in Count 2;

12 Count 4 to a minimum of twenty-four (24) months and a maximum of sixty (60) months to
13 be served concurrently to that imposed in Count 3,
14 all within the Nevada Department of Corrections (NDOC), with 1,218 days credit for time served.
15 The total aggregate sentence was a minimum of seventy-two (72) months and a maximum of two
16 hundred forty (24) months. As there remained issues regarding restitution and other possible
17 corrections that needed to be made to the PSI, a hearing was scheduled for August 20, 2019 at 8:30
18 a.m. *See Reporter's Transcript of Hearing: Jury Trial, Day 2, August 6, 2019 filed April 1, 2022 in*
19 *Case No. C-16-314359-1.*
20

21
22 **6.** On August 20, 2019, the STATE represented it would not be requesting restitution
23 from MR. RODGERS. Other corrections and/or changes were made to the PSI at MR. RODGERS'
24 request pursuant to Stockmeier. The section on page 1, under II, titled "Charge Information," that
25 contained on page 7, under IX titled "Plea Negotiations" and the recommendation in Section X to
26

27 ...

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1 delete Count 1 were stricken.² As the corrections to the PSI had been made and MR. RODGERS'
2 concerns were addressed, the Judgment of Conviction was filed August 23, 2019.

3 7. MR. RODGERS filed his Notice of Appeal on September 24, 2019. On November
4 25, 2019, the Nevada Supreme Court dismissed the appeal as untimely.

5 8. MR. RODGERS has filed an Amended Petition for Writ of Habeas Corpus (Post
6 Conviction), asserting eleven (11) grounds for relief:

7
8 *First*, his defense counsel, MR. PARRIS, was ineffective as he failed to file the Notice of
9 Appeal timely in violation of the Sixth Amendment to the United States Constitution.

10 *Second*, MR. RODGERS was denied due process when the district court failed to toll the
11 timeliness of appeal in violation of the Fifth and Fourteenth Amendments.

12 *Third*, his appellate counsel was ineffective for failing to raise on appeal MR. RODGERS
13 was denied effective assistance of counsel at the preliminary hearing due to conflict of interest in
14 violation of the Sixth Amendment.

15
16 *Fourth*, MR. RODGERS was denied effective assistance of counsel when the district court
17 denied his Motion to Remand for New Preliminary Hearing, or in the alternative, Motion to Dismiss
18 Due to Prior Counsel's Conflict of Interest in violation of the Sixth Amendment.

19 *Fifth*, MR. RODGERS was denied effective assistance of counsel when MR. PARRIS
20 withheld information from him to convince him to plead guilty in violation of the Sixth Amendment.
21

22 *Sixth*, MR. RODGERS was denied effective assistance of counsel when his attorney misled
23 him regarding the defense expert witness' availability for trial in violation of the Sixth Amendment.

24 *Seventh*, MR. RODGERS was denied due process when the district court refused to allow
25 him to withdraw his guilty plea a second time when the plea was made and based upon withheld
26

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²Also see Recorder's Transcript of Hearing Re: All Pending Motions dated August 20, 2019, pp. 21-22, filed
April 11, 2022 in Case No. C-16-314359-1.

1 information, evidence and issues surrounding the PSI in violation of his Fifth and Fourteenth
2 Amendments.

3 *Eighth*, MR. RODGERS was denied due process of law as the STATE failed to dismiss the
4 case pursuant to the Guilty Plea Agreement in violation of his Fifth and Fourteenth Amendments.

5 *Ninth*, counsel was ineffective for failing to challenge the Notice of Intent to Seek
6 Punishment as a Habitual Criminal in violation of the Sixth and Fourteenth Amendments.

7 *Tenth*, counsel was ineffective “constitutionally deficient in failing to advise me properly in
8 response to a potential sentence and time off at sentence and eligibility for parole” in violation of the
9 Sixth and Fourteenth Amendments.

10 *Eleventh*, counsel was ineffective for failing to challenge the Second Amended Plea
11 Agreement that contained a new improper charge which was in violation of his Fifth, Sixth and
12 Fourteenth Amendments.
13

14 **CONCLUSIONS OF LAW**

15
16 1. NRS 34.360 provides: “Every person unlawfully committed, detained, confined or
17 restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus
18 to inquire into the cause of such imprisonment or restraint.” Habeas corpus is an extraordinary
19 remedy and appropriate to test the legality of a conviction which is challenged upon constitutional
20 grounds. Shum v. Fogliani, 82 Nev. 156, 157, 413 P.2d 495, 496 (1966), *overruled on other*
21 *grounds*, Rahn v. Warden, 88 Nev. 429, 498 P.2d 1344 (1972). Here, MR. RODGERS has filed his
22 Amended Petition for Habeas Corpus upon the grounds he was denied his constitutional rights as
23 guaranteed by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and as
24 a consequence, his criminal conviction resulting therefrom was wrongful.
25

26 ...

27 ...
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MR. RODGERS' Sixth Amendment Claims of Ineffective Assistance of Counsel

2. The Sixth Amendment to the United States Constitution specifically provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusations; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, *and to have the assistance of counsel for his defense.* (Emphasis added).

3. A fair trial is one in which evidence subject to adversarial testing is presented to an impartial tribunal for resolution of issues defined in advance of the proceeding. The right to counsel plays a critical role in the adversarial system embodied within the Sixth Amendment, as access to the lawyer's skill and knowledge is necessary to accord the defendant "ample opportunity to meet the case of the prosecution" to which he is entitled. Adams v. United States ex rel. McCann, 317 U.S. 269, 275-276, 63 S.Ct. 236, 240, 87 L.Ed. 268 (1942), *quoted by* Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 2063, 80 L.Ed.2d 674 (1984). Thus, an accused is entitled to be assisted by a lawyer, whether retained or appointed, who plays the role necessary to ensure the trial is fair. Strickland, 466 U.S. at 685, 104 S.Ct. at 2063, 80 L.Ed.2d 674. For that reason, the United States Supreme Court has recognized "the right to counsel is the right to *effective* assistance of counsel." *Id.*, *quoting* McMann v. Richardson, 397 U.S. 759, 771 n.14, 90 S.Ct. 1441, 1449 n.14, 25 L.Ed.2d 763 (1970) (Emphasis added).

4. MR. RODGERS must prove the factual allegations underlying his ineffective assistance claims by a preponderance of the evidence. *See* Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). His burden to show his lawyers' assistance was so defective as to require reversal of his convictions has two components or prongs: *First*, he must show his attorneys' performance was deficient; that is, he must demonstrate counsel made errors so serious the lawyer was not functioning as "counsel guaranteed MR. RODGERS under the Sixth Amendment. *Second*,

1 MR. RODGERS must show the deficient performance prejudiced his defense. That is, he must
2 show counsel's errors were so serious as to deprive him of a fair trial, or a trial with a reliable result.
3 Unless MR. RODGERS has made both showings, it cannot be said his conviction resulted from a
4 breakdown in the adversary process that renders the result unreliable. *Id.*, 466 U.S. at 687, 104 S.Ct.
5 at 2064, 80 L.Ed.2d 674. That is, this Court need not analyze both prongs of *Strickland* if MR.
6 RODGERS makes an insufficient showing on either one.

7
8 5. In order to eliminate the distorting effects of hindsight, courts indulge in a strong
9 presumption counsel's representation falls within the broad range of reasonable assistance. *Molina*
10 *v. State*, 120 Nev. 185, 190 87 P.3d 533, 537 (2004), *citing Kirksey v. State*, 112 Nev. 980, 987, 923
11 P.2d 1102, 1107 (1996).

12 6. When it considers the first prong set forth above, this Court notes "[e]ffective counsel
13 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of
14 competence demanded of attorneys in criminal cases.'" *Jackson v. Warden*, 91 Nev. 430, 432, 537
15 P.2d 473, 474 (1975). That is, "[a]n error by counsel, even if professionally unreasonable, does not
16 warrant setting aside the judgment of a criminal proceeding if the error had no effect on the
17 judgment." *Strickland*, 466 U.S. at 691, 104 S.Ct. 2066, 80 L.Ed.2d 674. Attorney errors come in
18 an infinite variety and are as likely to be harmless in a particular case as they are to be prejudicial.
19 *Id.*, 466 U.S. at 693, 104 S.Ct. at 2067, 80 L.Ed.2d 674. As noted by the United States Supreme
20 Court in *Strickland*, 466 U.S. at 693, 104 S.Ct. at 2067, 80 L.Ed. 674, "[r]epresentation is an art, and
21 an act or omission that is unprofessional in one case may be sound or even brilliant in another."

22 7. Considering the second prong, it is not enough for the defendant to show errors had
23 some conceivable effect on the outcome of the proceeding. Indeed, virtually every act or omission
24 of defense counsel would meet that test. *Id.* Not every error that conceivably could have influenced
25 the outcome undermines the reliability of the proceeding's result. The question is whether there is a
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1 reasonable probability, absent the errors, the fact-finder would have had a reasonable doubt
2 respecting guilt. Further, when the defendant challenges the sentence, the question is whether there
3 is a reasonable probability, the sentence—including the appellate court, to the extent it
4 independently reweighs the evidence—would have concluded the balance of the aggravating and
5 mitigating circumstances did not warrant the particular sentence. *Id.*, 466 U.S. at 695, 104 S.Ct. at
6 2068-2069.

7
8 *MR. RODGERS' First Ground—Ineffective Assistance of Counsel*

9 8. MR. RODGERS claims his fourth-appointed attorney, JOHN P. PARRIS, ESQ., was
10 ineffective as he failed to timely file the Notice of Appeal—it was filed two days after the deadline
11 set forth in Rule 4(b)(1)(A) of the Nevada Rules of Appellate Procedure (NRAP). The question here
12 is, but for the error, was it likely the appeal would have resulted in overturning the Judgment of
13 Conviction. The only bases MR. RODGERS identified within his Amended Petition to support the
14 appeal are (1) he and MR. PARRIS had a contentious relationship to the point he (RODGERS) filed
15 a motion to dismiss his counsel in July 2019,³ and (2) MR. PARRIS misinformed him regarding the
16 availability of the material witness, MS. MARTINEZ, to testify at the trial; if he had known she was
17 not in custody on the material witness warrant and unavailable to testify, MR. RODGERS would not
18 have pled guilty and would have insisted the trial continue. In this Court's view, MR. RODGERS
19 did not provide any adequate basis to demonstrate, but for MR. PARRIS' error, the filing of a timely
20 appeal, more probably than not, would have resulted in a reversal of his conviction. While he claims
21 his rapport with MR. PARRIS was contentious, the record shows MR. RODGERS had a
22 disagreeable relationship with all four lawyers who had been appointed to represent him. Most
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27 ³MR. RODGERS filed several motions to dismiss his attorneys. The first was filed July 18, 2016 when he
28 moved for dismissal of JEREMY WOOD, ESQ. of the Public Defenders' Office. The second was filed April 24, 2017
when, again, he moved to dismiss MR. WOOD. A Motion to Appoint Alternate Counsel was filed August 7, 2018 about
three (3) weeks after MR. RODGERS pled guilty to committing the crimes set forth in the now-stricken Second
Amended Information. A fourth Motion to Withdraw as Counsel was filed January 10, 2019.

1 certainly, this Court's decision not to discharge the fourth lawyer is insufficient ground to reverse
2 the Judgment. Further, whether MR. PARRIS misinformed or withheld information from MR.
3 RODGERS regarding a material witness warrant is, at best, a red herring as the victim, MS.
4 MARTINEZ, ultimately was available to testify and would have testified if the trial had ensued.
5 Contrary to MR. RODGERS' perception, the fact MS. MARTINEZ did not want to testify does not
6 equate to being unavailable or unwilling to testify. MR. RODGERS made the decision to plead
7 guilty during jury *voir dire* having the correct information the victim would be present and testify at
8 trial. Additionally, it should not be lost MR. RODGERS freely and voluntarily admitted his guilt to
9 committing the crimes as signified within his signed Guilty Plea Agreement filed August 9, 2019
10 and his answers to the Court's canvass. MR. RODGERS' Amended Petition for Writ of Habeas
11 Corpus is denied as it seeks overturning the judgment of conviction based upon Ground One or MR.
12 PARRIS' alleged failure to timely file the appeal.
13

14
15 MR. RODGERS' Third Ground—Ineffective Assistance of Counsel

16 9. MR. RODGERS proposes his appellate counsel, MR. PARRIS, was ineffective as he
17 failed to raise on appeal Petitioner was denied effective assistance of counsel at the preliminary
18 hearing due to a conflict of interest. According to MR. RODGERS, the Public Defenders' Office
19 represented him from time of the preliminary hearing to "a few days before trial" ⁴when it was
20 discovered that office had previously represented the victim, MS. MARTINEZ, on a charge of
21 battery with use of a deadly weapon constituting domestic violence in 2012.⁵ It is unfortunate the
22 Public Defenders' Office did not discover the conflict of interest before the preliminary hearing.
23 However, within his Amended Petition, MR. RODGERS does not state how this later-discovered
24
25

26 ⁴According to the Court's record, a motion to withdraw due to conflict of interest was filed in June 2016; the
27 first trial was scheduled September 2016.

28 ⁵See Exhibit F attached to MR. RODGERS' Amended Petition for Writ of Habeas Corpus. While a criminal
complaint was filed in Justice Court, Las Vegas Township under Case No. 12F18766X, there is no record of the filing of
an Information or Indictment in the Eighth Judicial District Court, in and for Clark County, Nevada.

1 conflict resulted in his receiving ineffective assistance of counsel at a preliminary hearing where the
2 judge determines if probable cause exists to believe the defendant committed the crime. MR.
3 RODGERS does not identify how any errors made by his defense lawyer at the April 2016
4 preliminary hearing warrants setting aside the Judgment of Conviction entered after MR.
5 RODGERS pled guilty over three years later on August 23, 2019. In other words, while he makes
6 conclusory statements his appellate lawyer failed to raise the lack of effectiveness of his legal
7 representation at the preliminary hearing stage, MR. RODGERS does not state factually *how* such
8 conduct made counsel ineffective or *how* it affects the Judgment. MR. RODGERS' Amended
9 Petition for Writ of Habeas Corpus is denied as it seeks vacating the judgment of conviction based
10 upon Ground Three.
11

12 MR. RODGERS' Fourth Ground—Ineffective Assistance of Counsel
13

14 **10.** MR. RODGERS argues he was denied effective assistance of counsel when the
15 district court denied his Motion to Remand for New Preliminary Hearing, or in the alternative,
16 Motion to Dismiss in 2017 due to prior counsel's conflict of interest in defending the victim, MS.
17 MARTINEZ, in a 2012 criminal matter and thereafter representing MR. RODGERS in the instant
18 case in 2016. Contrary to MR. RODGERS' misguided perception, a court's decision to deny a
19 motion to remand, or alternatively, motion to dismiss is the action of a judge, and does not, in any
20 way, suggest ineffectiveness of defense counsel. Further, it is a stretch to propose if it were not for
21 the court's "error" in denying the alternate motions in 2017, MR. RODGERS would not have pled
22 guilty to committing the crimes two years later on the second day of trial, August 6, 2019. MR.
23 RODGERS' Amended Petition for Writ of Habeas Corpus is denied as it seeks to set aside the
24 Judgment of Conviction based upon Ground Four.
25

26 ...
27

28 ...

MR. RODGERS' Ground Five—Ineffective Assistance of Counsel

11. MR. RODGERS proposes he was denied effective assistance of counsel when his lawyer withheld information concerning witness availability in an effort to convince him to plead guilty. The “withheld” information was, supposedly, the Deputy District Attorney did not have the victim, MS. MARTINEZ, in custody on a material witness warrant. Further, MR. PARRIS was ineffective as he attempted to rush the plea bargaining process and sentence without properly reviewing the PSI or allowing MR. RODGERS to review the PSI. MR. RODGERS’ arguments lack credence for various reasons. *First*, contrary to MR. RODGERS’ assessment and as stated *supra*, MS. MARTINEZ was available and would have testified if the trial went forward. She may not have wanted to testify, but she was prepared to testify. According to MR. RODGERS, he made the decision to plead guilty given MS. MARTINEZ’S availability to testify. There was no withholding of information from MR. RODGERS with respect to the witness issue; that is, MR. PARRIS correctly informed his client MS. MARTINEZ would testify. *Second*, a lawyer is not “ineffective” when he does not review a PSI prior to his client entering a guilty plea. In fact, there are many instances where the PSI is not yet drafted when the criminal defendant pleads guilty. *Third*, notwithstanding the fact a lawyer is not “ineffective” when he does not review the PSI before the guilty plea is made by his client, the errors contained within the PSI were corrected on August 6 and 20, 2019. MR. RODGERS’ Amended Petition for Writ of Habeas Corpus is denied as it seeks overturning the Judgment of Conviction based upon Ground Five.

MR. RODGERS' Ground Six—Ineffective Assistance of Counsel

12. MR. RODGERS proposes MR. PARRIS was ineffective as he misled him concerning the availability of DR. NICHOLAS K. HAN, the victim’s attending physician, to testify at trial.⁶

⁶According to MR. RODGERS, DR. HAN was expected to testify he was MS. MARTINEZ’S attending physician, she was not attacked by a knife and the injury to her ear was consistent “with an ear ring.” He refers to

1 According to MR. RODGERS, DR. HAN could not be found, and for that reason, MR. PARRIS
2 represented the trial would be continued to December 2019. Thereafter, MR. RODGERS was told it
3 was the judge's decision not to continue the trial which had been scheduled for the eighth time in
4 August 2019. Given the unavailability of DR. HAN, MR. RODGERS claims he elected to plead
5 guilty to committing the crimes set forth within the Second Amended Information. Contrary to MR.
6 RODGERS' perception, MR. PARRIS' representation he would be seeking a continuance of the trial
7 due to witness unavailability is not ineffectiveness. Further, it was the Court's decision to maintain
8 the trial date after it had already been scheduled and rescheduled eight times. Notwithstanding that
9 premise, MR. RODGERS fails to indicate why DR. HAN, a local doctor, could not have been served
10 a subpoena to attend and testify at the trial. MR. RODGERS' Amended Petition for Writ of Habeas
11 Corpus is denied as it seeks to overturn the Judgment of Conviction based upon Ground Six.

12
13 MR. RODGERS' Ground Nine—Ineffective Assistance of Counsel

14
15 **13.** MR. RODGERS claims MR. PARRIS was ineffective for failing to challenge the
16 Notice of Intent to Seek Punishment as a Habitual Criminal. If he had done so, MR. PARRIS would
17 have learned the 2001 conviction was dismissed and the 2000 conviction from the State of
18 Oklahoma was for a misdemeanor and not a felony. MR. RODGERS' position lacks credence for at
19 least a couple of reasons. *First, and most obvious*, a review of the Judgment of Conviction filed
20 August 23, 2019 demonstrates MR. RODGERS was not punished as a habitual criminal. He was
21 convicted of committing four crimes and he was sentenced to serve the ranges of time identified
22 within the criminal statutes. MR. PARRIS' alleged error, i.e. failure to challenge the Notice, is
23 harmless. *Second*, and as set forth above, the information concerning the 2001 conviction was
24 corrected at the August 6, 2019 hearing to reflect MR. RODGERS was accorded treatment under
25

26
27
28 Exhibit M attached to his Amended Petition for Writ of Habeas Corpus, but that document is the STATE'S Notice of
Intent to Seek Punishment as a Habitual Criminal.

1 NRS 453.3363, and ultimately, that matter was dismissed. Such correction was reflected within the
2 Judgment of Conviction as well as the PSI. Accordingly, MR. RODGERS' Amended Petition for
3 Writ of Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon
4 Ground Nine.

5 MR. RODGERS' Ground Ten—Ineffective Assistance of Counsel

6
7 14. MR. RODGERS proposes MR. PARRIS was ineffective as he failed to advise him
8 properly regarding the potential sentence, credit for time served and eligibility of parole. According
9 to MR. RODGERS, MR. PARRIS informed him if he pled guilty, he would be eligible to apply for
10 good time credits and reduce the minimum term of his sentence. Whether MR. PARRIS made such a
11 representation or error is not consequential for at least a couple of reasons. *First*, as shown by his
12 responses to the judge's canvass on August 6, 2019, MR. RODGERS understood any sentence
13 imposed would be as a result of the judge's decision and no one could promise him leniency,
14 probation or other special treatment. *Second*, as shown by the terms of the Guilty Plea Agreement
15 filed August 6, 2019 and signed by MR. RODGERS and his attorney, "[t]he parties stipulate to
16 jointly recommend an aggregate sentence of six (6) to twenty (20) years in the Nevada Department
17 of Corrections. The parties agree the plea is conditioned upon the Court accepting the negotiations.
18 The State agrees to dismiss case C316167 after rendition of sentence." MR. RODGERS also
19 acknowledged he had "not been promised or guaranteed any particular sentence by anyone." He
20 knew his "sentence is to be determined by the Court within the limits prescribed by statute." He also
21 understood if his "attorney or the State of Nevada or both recommend any specific punishment to the
22 Court, the Court is not obligated to accept the recommendation." Hence, assuming MR. PARRIS
23 failed to advise MR. RODGERS properly regarding the potential sentence, credit for time served
24 and eligibility of parole, such was harmless as MR. RODGERS was made aware by other sources as
25
26
27 ...
28

1 to his sentence set forth within the Judgment of Conviction. MR. RODGERS' Amended Petition for
2 Writ of Habeas Corpus is denied as it seeks to overturn the conviction based upon Ground Ten.

3 **MR. RODGERS' Fifth and Fourteenth Amendment Claims**

4 **15.** The Fifth Amendment to the United States Constitution states:

5 No person shall be held to answer for a capital, or otherwise infamous crime, unless on a
6 presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces,
7 or in the Militia, when in actual service in time of War or public danger; nor shall any person
8 be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be
9 compelled in any criminal case to be a witness against himself, nor be deprived of life,
liberty, or property, without due process of law; nor shall private property be taken for public
use, without just compensation.

10 **16.** Section 1 of the Fourteenth Amendment to the United States Constitution reads:

11 All persons born or naturalized in the United States and subject to the jurisdiction thereof, are
12 citizens of the United States and of the State wherein they reside. No State shall make or
13 enforce any law which shall abridge the privileges or immunities of citizens of the United
14 States; nor shall any State deprive any person of life, liberty or property, without due process
of law; nor deny to any person within its jurisdiction the equal protection of the laws.

15 **MR. RODGERS' Ground Two—Denial of Due Process**

16 **17.** MR. RODGERS claims he was denied due process as the district court failed to toll
17 the timeliness of the appeal in violation of the Fifth and Fourteenth Amendments to the United
18 States Constitution. Specifically, MR. RODGERS argues he gave "oral" notice of his intention to
19 appeal at the August 20, 2019 hearing, approximately three days before the Judgment of Conviction
20 was filed. In his view, as he gave oral notice of his intent to appeal prematurely, the notice must be
21 treated as filed after entry of the Judgment of Conviction. *See* NRAP 4(b)(2).
22

23 **18.** NRAP 4(b)(2) provides: "A notice of appeal filed after the announcement of a
24 decision, sentence or order—but before entry of the judgment or order—shall be treated as filed after
25 such entry and on the day thereof." In this case, MR. RODGERS may have orally indicated his
26 intention to appeal on August 20, 2019, but he did not file a Notice of Appeal before the Judgment
27 of Conviction was issued, and thus, the effect of NRAP(b)(2) is not triggered. The Notice of Appeal
28

1 was filed September 24, 2019, two days after the deadline for filing such notices under NRAP
2 4(b)(1)(A), and thus, from a jurisdictional standpoint, the filing was untimely. While MR.
3 RODGERS proposes the time for filing the Notice of Appeal should have been tolled given his oral
4 notice of intention to file an appeal, there is nothing contained within the Nevada Rules of Appellate
5 Procedure that supports such position; this Court did not deny MR. RODGERS due process by
6 allegedly failing to toll the timeliness of the appeal. MR. RODGERS' Amended Petition for Writ of
7 Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon Ground
8 Two.

10 MR. RODGERS' Ground Seven—Denial of Due Process

11 **19.** MR. RODGERS claims he was denied due process when this Court refused to allow
12 him to withdraw his guilty plea rendered August 6, 2019 based upon “withheld information,
13 evidence and issues surrounding the PSI” in violation of the Fifth and Fourteenth Amendments. As
14 noted above, part of the information allegedly withheld by MR. RODGERS' counsel was whether a
15 material witness warrant had been issued and the victim, MS. MARTINEZ, would be testifying at
16 the trial. Again, whether a material witness warrant was issued is a “red herring,” as MS.
17 MARTINEZ was available and willing to testify at the trial. Other withheld information concerned
18 the availability of DR. HAN, the victim's attending physician, resulting in defense counsel
19 requesting a trial continuance. The “withholding” of information did not result in MR. RODGERS
20 being denied due process.

21 **20.** MR. RODGERS also proposes he was denied due process as his attorney “attempted
22 to rush the plea bargaining process and sentence without properly reviewing a year-old PSI or
23 allowing Petitioner time to review the PSI with counsel.” As noted above, the PSI was reviewed in
24 open court on August 6 and 20, 2019 by all attorneys, MR. RODGERS and the Court. Additionally,
25 MR. RODGERS and his lawyer had a two-week time span to review the PSI between August 6 and
26
27
28

1 20. All corrections MR. RODGERS identified were made to the PSI on August 6 and 20, 2019.
2 Furthermore, a Supplemental PSI was filed November 22, 2021. To wit, MR. RODGERS was not
3 denied due process because the PSI was not properly reviewed. MR. RODGERS' Amended Petition
4 for Writ of Habeas Corpus is denied as it seeks to overturn the Judgment of Conviction based upon
5 Ground Seven.

6
7 MR. RODGERS' Ground Eight—Denial of Due Process

8 **21.** MR. RODGERS proposes he was denied due process as the STATE failed to dismiss
9 Case No. C-16-316167-1 pursuant to the Guilty Plea Agreement. Such statement is not true; Case
10 No. C-16-316167-1, the Information of which charged MR. RODGERS of (1) Sex Trafficking, (2)
11 Living From the Earnings of a Prostitute, (3) Battery with Use of a Deadly Weapon Constituting
12 Domestic Violence and (4) Sexual Assault, was dismissed August 6, 2019. Further, there were other
13 incentives accorded MR. RODGERS in exchange for his guilty plea. The Guilty Plea Agreement
14 entered in this matter also included the reduction of the Kidnapping accusation from First to Second
15 Degree, the removal of the original Battery and False Imprisonment crimes, the Use of Deadly
16 Weapon enhancement from the Robbery charge and inclusion of Pandering, the crime allegedly
17 inflicted upon a different victim, SAVANNAH TAYLOR.

18
19 **22.** Within his Amended Petition for Writ of Habeas Corpus, MR. RODGERS also
20 suggests the STATE comprised the Pandering charge within the Second Amended Information
21 without him being aware of its inclusion. That position, however, is not true. The Second Amended
22 Information was attached to the Guilty Plea Agreement reviewed and signed by MR. RODGERS
23 and his lawyer. MR. RODGERS was also canvassed by this Court concerning the charges contained
24 in the Second Amended Information:
25

26 THE COURT: Okay. Mr. Rodgers, have you received a copy of the second amended
27 information?
28

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. You understand, just so that we are all clear, that it is the second
3 amended information which was filed today is charging with Count 1, Second Degree
4 Kidnapping a Category B Felony in violation of NRS 200.310, 200.330. Count 2, Robbery,
5 a Category B Felony in violation of NRS 200.380, Mayhem which is Count 2, a Category B
6 Felony in violation of NRS 200.280 and Count 4, Pandering, a Category C Felony in
7 violation of NRS 201.300 subsection 1. Do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: How do you plead to those charges?

10 THE DEFENDANT: Guilty.

11 See Recorder's Transcript of Hearing Re: Jury Trial, Day 2 - August 6, 2019, pp. 7-8, filed April 11,
12 2022. MR. RODGERS was fully aware Count 4, Pandering, would be included within the charges
13 set forth in the Second Amended Complaint. Further, contrary to MR. RODGERS'
14 misrepresentations, the STATE did dismiss Case No. C-16-316167-1. MR. RODGERS' Amended
15 Petition for Writ of Habeas Corpus is denied as it seeks a reversal of the Judgment of Conviction
16 based upon Ground Eight.

17 **MR. RODGERS' Fifth, Sixth and Fourteenth Amendment Claims**

18 **MR. RODGERS' Ground Eleven—Denial of Due Process**

19 23. Lastly, MR. RODGERS claims his attorney, MR. PARRIS, was ineffective for failing
20 to challenge the Second Amended "Plea Agreement" that contained a "new improper charge" of
21 Pandering which violated his constitutional rights under Fifth, Sixth and Fourteenth Amendments to
22 the United States Constitution. MR. PARRIS, however, was not acting ineffectively for "failing" to
23 challenge the filing of the Second Amended Information and Guilty Plea Agreement as that was part
24 of the bargain MR. RODGERS entered. As noted above, MR. RODGERS was fully aware
25 Pandering was included as Count 4 of the Second Amended Information. The Second Amended
26 Information was attached to the Guilty Plea Agreement reviewed and signed by MR. RODGERS
27
28

1 and his lawyer before Petitioner was canvassed by the Court. MR. RODGERS testified to the Court
2 he knew he was being charged with committing the crimes set forth in Counts 1 through 4, and he
3 pled guilty to committing those crimes which included Pandering. *See* Recorder's Transcript of
4 Hearing Re: Jury Trial, Day 2 - August 6, 2019, pp. 7-8, filed April 11, 2022. MR. RODGERS'
5 Amended Petition for Writ of Habeas Corpus is denied as it seeks a reversal of the Judgment of
6 Conviction based upon Ground Eleven.

7
8 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

9 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Petitioner CRAIG
10 RODGERS' Amended Petition for Writ of Habeas Corpus filed December 23, 2021 is denied.

11
12 Dated this 17th day of May, 2022

13 

14 _____
SUSAN H. JOHNSON, DISTRICT COURT JUDGE

15 **AD9 8D1 125A 5F36**
16 **Susan Johnson**
17 **District Court Judge**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Craig Rodgers, Plaintiff(s)

CASE NO: A-20-820408-W

7 vs.

DEPT. NO. Department 22

8 William Hutchings Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/17/2022

15 District Court Law Clerk

Dept22LC@clarkcountycourts.us

16
17 If indicated below, a copy of the above mentioned filings were also served by mail
18 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 5/18/2022

19 Craig Rodgers

Craig Rodgers #1221816

20 P.O. Box 208

21 Indian Springs, NV, 89070

22
23
24
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 21, 2020

A-20-820408-W	Craig Rodgers, Plaintiff(s)
	vs.
	William Hutchings Warden, Defendant(s)

December 21, 2020 3:00 AM Minute Order

HEARD BY: Johnson, Susan **COURTROOM:** Chambers

COURT CLERK: Keri Cromer

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having examined Petitioner s Motion to Appoint Counsel filed December 8, 2020, noted this Court previously denied Petitioner s Ex Parte Motion to Appoint Counsel as set forth within its Order filed October 27, 2020, and further, the second motion filed December 8, 2020 was not served upon Defendants, and there is good cause therefore, COURT ORDERS Petitioner s (second) Motion to Appoint Counsel filed December 8, 2020 is DENIED. The matter scheduled to be heard Tuesday, January 12 2021 at 8:30 a.m. is VACATED. Defense counsel is to prepare and submit a proposed Order to the Court within fourteen (14) days of this Minute Order or no later than Monday, January 4, 2021 pursuant to EDCR 7.21.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service, facsimile and/or mail. kc//12-21-20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 07, 2021

A-20-820408-W Craig Rodgers, Plaintiff(s)
vs.
William Hutchings Warden, Defendant(s)

January 07, 2021 9:00 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Rose, Steven Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS
PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

Court reviewed the procedural history of the case. State advised it would submit on the pleadings if the Court was to make a ruling today. COURT ORDERED, matter CONTINUED 30 days for Mr. Rodgers to either reply to the State's Response or to arrange his appearance at the next court date.

CONTINUED TO 02/04/2021 - 9:00 AM

CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816, P.O. Box 208, Indian Springs, NV 89070 kc//1/7/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

February 04, 2021

A-20-820408-W Craig Rodgers, Plaintiff(s)
vs.
William Hutchings Warden, Defendant(s)

February 04, 2021 9:00 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Rose, Steven Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...STATE'S RESPONSE AND MOTION TO DISMISS
PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

Court advised Mr. Rodgers did not do what was requested of him at the last hearing; he did not file a response and he did not make an attempt to appear today and make oral arguments. Mr. Rose advised he sent an additional copy of their Response to Mr. Rodgers, along with a certificate of service. COURT ORDERED, Petition DENIED; Motion GRANTED. Mr. Rose to prepare findings of fact and conclusions of law.

CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816. PO Box 208, Indian Springs, NV 89070 kc//2/4/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 26, 2021

A-20-820408-W Craig Rodgers, Plaintiff(s)
vs.
William Hutchings Warden, Defendant(s)

August 26, 2021 3:00 AM Minute Order

HEARD BY: Johnson, Susan **COURTROOM:** Chambers

COURT CLERK: Louisa Garcia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having examined Petitioner's "Rule 60(B) Motion" and Motion for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference, both filed August 18, 2021, noted this Court previously decided the same issues raised in the current "Rule 60(B) Motion" as set forth within its Order Denying Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus filed April 27, 2021, and there is good cause therefore, COURT ORDERS Petitioner's "Rule 60(B) Motion" filed August 18, 2021 is DENIED for the same reasons set forth within this Court's April 27, 2021 Order. Petitioner's Motion for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference filed August 18, 2021 is DENIED as MOOT. The matter scheduled to be heard Tuesday, September 21, 2021 at 8:30 a.m. is VACATED.

CLERK'S NOTE: The above minute order has been distributed to: Craig Rodgers, #1221816. PO Box 208, Indian Springs, NV 89070.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 15, 2022

A-20-820408-W Craig Rodgers, Plaintiff(s)
vs.
William Hutchings Warden, Defendant(s)

**March 15, 2022 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Rodgers, Craig Plaintiff

JOURNAL ENTRIES

- Appearances made via BlueJeans Videoconferencing Application: Craig Rogers.

Court stated no appearance was made on behalf of the State. Arguments by Craig Rogers. COURT ORDERED, Amended Petition for Writ of Habeas Corpus UNDER ADVISEMENT.

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PETITIONER CRAIG RODGERS' AMENDED PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION); NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

CRAIG RODGERS,

Plaintiff(s),

vs.

WILLIAM HUTCHINGS, WARDEN; STEVEN
B. WOLFSON, DISTRICT ATTORNEY;
STATE OF NEVADA,

Defendant(s),

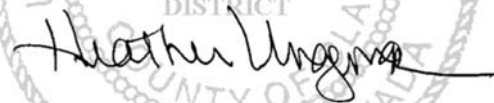
Case No: A-20-820408-W

Dept No: XXII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 3 day of June 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk