

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jun 23 2022 02:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CRAIG ALLEN RODGERS,
Appellant(s),

vs.

WILLIAM HUTCHINGS, WARDEN;
STEVEN B. WOLFSON, DISTRICT
ATTORNEY; AND THE STATE OF
NEVADA,
Respondent(s),

Case No: A-20-820408-W

Docket No: 84822

RECORD ON APPEAL VOLUME 1

ATTORNEY FOR APPELLANT
CRAIG RODGERS #1221816,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 242
2	243 - 483
3	484 - 584

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	12/23/2021	"Amended Petition for Writ of Habeas Corpus (Post-Conviction); Petition : Expeditious Judicial Examination (NRS 34.360 - 34.830) (Continued)	419 - 483
3	12/23/2021	"Amended Petition for Writ of Habeas Corpus (Post-Conviction); Petition : Expeditious Judicial Examination (NRS 34.360 - 34.830) (Continuation)	484 - 502
1	8/31/2020	Application to Proceed Informa Pauperis (Confidential)	77 - 79
1	10/21/2020	Application to Proceed Informa Pauperis (Confidential)	87 - 90
2	9/21/2021	Application to Proceed Informa Pauperis (Confidential)	403 - 408
1	11/12/2020	Case Appeal Statement	121 - 122
2	3/18/2021	Case Appeal Statement	310 - 311
2	3/18/2021	Case Appeal Statement	312 - 313
2	9/16/2021	Case Appeal Statement	401 - 402
3	6/3/2022	Case Appeal Statement	578 - 579
1	1/19/2021	Certificate of Service	156 - 156
3	6/23/2022	Certification of Copy and Transmittal of Record	
1	2/18/2021	Civil Order to Statistically Close Case	241 - 242
2	3/15/2021	Designation of Record on Appeal	304 - 304
2	3/17/2021	Designation of Record on Appeal	309 - 309
2	9/14/2021	Designation of Record on Appeal	398 - 400
3	5/31/2022	Designation of Record on Appeal	575 - 577
3	6/23/2022	District Court Minutes	580 - 584

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	8/31/2020	Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing	73 - 76
3	2/18/2022	Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing	517 - 521
1	10/21/2020	Ex Parte Motion for the Appointment of Counsel Request for Evidentiary Hearing	95 - 100
2	3/5/2021	Findings of Fact, Conclusions of Law, and Order	243 - 258
3	3/10/2022	Instructions for BlueJeans Videoconferencing	529 - 529
1	2/4/2021	Motion and Order for Transportation of Inmate for Court Appearance	157 - 164
3	12/23/2021	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative for Appearance by Telephone or Video Conference	503 - 510
1	10/26/2020	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	103 - 110
2	4/22/2021	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	343 - 349
2	8/18/2021	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	382 - 387
3	2/18/2022	Motion and Order for Transportation of Inmate for Court Appearance or, in the	522 - 528

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		Alternative, for Appearance by Telephone or Video Conference	
2	3/8/2021	Motion for Reconsideration & Rehearing for Writ of Habeas Corpus	262 - 282
2	3/29/2021	Motion for Reconsideration & Rehearing for Writ of Habeas Corpus "Hearing Requested"	317 - 338
1	12/8/2020	Motion to Appoint Counsel	124 - 131
1	12/30/2020	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed	135 - 138
2	10/28/2021	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed	411 - 414
2	12/1/2021	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Reversed and Remand	415 - 418
1	11/10/2020	Notice of Appeal	116 - 120
2	3/15/2021	Notice of Appeal	300 - 303
2	3/17/2021	Notice of Appeal	305 - 308
2	9/14/2021	Notice of Appeal	396 - 397
3	5/31/2022	Notice of Appeal	573 - 574
2	3/10/2021	Notice of Entry of Findings of Fact, Conclusions of Law and Order	283 - 299
3	5/18/2022	Notice of Entry of Order	551 - 572
1	12/8/2020	Notice of Hearing	123 - 123
1	1/5/2021	Notice of Hearing	155 - 155
2	3/29/2021	Notice of Hearing	340 - 340
2	8/18/2021	Notice of Hearing	369 - 369

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
3	2/9/2022	Notice of Hearing	514 - 514
2	3/29/2021	Notice of Motion	339 - 339
2	8/18/2021	Notice of Motion; Hearing Requested	381 - 381
3	5/17/2022	Order Denying Petitioner Craig Rodgers' Amended Petition for Writ of Habeas Corpus (Post-Conviction)	530 - 550
1	10/27/2020	Order Denying Petitioner's Motion for Appointment of Counsel and Request for Evidentiary Hearing	114 - 115
2	4/27/2021	Order Denying Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus	362 - 368
1	12/24/2020	Order Denying Petitioner's Motion to Appoint Counsel	132 - 134
1	9/9/2020	Order for Petition for Writ of Habeas Corpus	85 - 86
1	10/27/2020	Order Granting Petitioner's Motion for Appearance by Telephone or Video Conference	111 - 113
1	9/9/2020	Order to Proceed in Forma Pauperis (Confidential)	82 - 84
1	8/31/2020	Petition for Writ of Habeas Corpus (Post- Conviction)	1 - 72
1	2/17/2021	Petitioners Reply to States Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post Conviction)	170 - 240
1	2/17/2021	Request for Submission	167 - 169
2	3/8/2021	Request for Submission	259 - 261

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/29/2021	Request for Submission "Hearing Requested"	314 - 316
2	8/18/2021	Rule 60 (B) Motion; Hearing Requested	370 - 380
2	4/27/2021	State's Opposition to Motion for Reconsideration	356 - 361
2	8/27/2021	State's Opposition to Defendant's Rule 60(B) Motion	390 - 395
2	4/26/2021	State's Opposition to Motion for Reconsideration	350 - 355
1	12/31/2020	State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction)	139 - 154
3	1/13/2022	Unsigned Document(s) - Order (Incomplete)	511 - 511
1	10/21/2020	Unsigned Document(s) - Order Appointing Counsel	93 - 94
2	4/22/2021	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	341 - 342
2	8/18/2021	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	388 - 389
3	2/18/2022	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	515 - 516

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	2/4/2021	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, In the Alternative, for Appearance by Telephone or Video Conference	165 - 166
3	1/13/2022	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference (Incomplete)	512 - 513
1	8/31/2020	Unsigned Document(s) - Order to Proceed in Forma Pauperis (Confidential)	80 - 81
1	10/21/2020	Unsigned Document(s) - Order to Proceed in Forma Pauperis (Confidential)	91 - 92
2	9/21/2021	Unsigned Document(s) - Order to Proceed in Forma Pauperis (E-mail to Dept. 22) (Confidential)	409 - 410
1	10/26/2020	Unsigned Document(s) - Order to Transportation of Inmate for Court Appearance or, In the Alternative, for Appearance by Telephone or Video Conference	101 - 102

PP
DA

CRAIG RODGERS #1221816
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

Electronically Filed
08/31/2020

Heather J. Smith
CLERK OF THE COURT

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

CRAIG RODGERS;

Petitioner,

vs.

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

Respondent(s).

A-20-820408-W

Case No. C-16-314359-1

Dept. No. 22

Docket _____

PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the institution. If you are not in a specific institution of the department within its custody, name the director of the department of corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction and sentence.

RECEIVED

AUG 20 2020

CLERK OF THE COURT

1 Failure to raise all grounds I this petition may preclude you from filing future petitions
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of
6 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which
7 you claim your counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one
9 copy must be filed with the clerk of the district court for the county in which the conviction
10 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the
11 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the
12 attorney general's office, and one copy to the district attorney of the county in which you were
13 convicted or to the original prosecutor if you are challenging your original conviction or sentence.
14 Copies must conform in all particulars to the original submitted for filing.

10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you
12 are presently restrained of your liberty: SOUTHERN DESERT CORRECTIONAL CENTER, INDIAN
13 SPRINGS, NEVADA

14 2. Name the location of court which entered the judgment of conviction under attack: _____
15 CLARK COUNTY

16 3. Date of judgment of conviction: AUGUST 23, 2019

17 4. Case number: C-16-314359-1

18 5. (a) Length of sentence: AGGREGATE TOTAL SENTENCE OF 6-20 YEARS

19 (b) If sentence is death, state any date upon which execution is scheduled: N/A

20 6. Are you presently serving a sentence for a conviction other than the conviction under attack in
21 this motion:

22 Yes _____ No ☒ If "Yes", list crime, case number and sentence being served at this time: _____

23 7. Nature of offense involved in conviction being challenged: SECOND DEGREE KIDNAPPING,
24 ROBBERY, MAYHEM AND PANDERING.

1 8. What was your plea? (Check one)

2 (a) Not guilty ☐

3 (b) Guilty ☒

4 (c) Nolo contendere ☐

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

7 GUILTY PLEA WAS NEGOTIATED THAT "THE STATE AGREES TO DISMISS CASE
8 C316167 AFTER RENDERING OF SENTENCE".

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

10 (a) Jury ☒ N/A

11 (b) Judge without a jury ☐

12 11. Did you testify at trial? Yes ☐ No ☒

13 12. Did you appeal from the judgment of conviction?

14 Yes ☐ No ☒

15 13. If you did appeal, answer the following: N/A

16 (a) Name of court:

17 (b) Case number or citation:

18 (c) Result:

19 (d) Date of appeal:

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

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

22 ATTORNEY DID NOT FILE DIRECT APPEAL

23 _____
24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously
25 filed any petitions, applications or motions with respect to this judgment in any court, state or
26 federal? Yes ☐ No ☒ NOTE: ATTORNEY DID NOT FILE DIRECT APPEAL
27
28

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

2 (a) (1) Name of court: N/A

3 (2) Nature of proceedings: _____

4 _____
5 (3) Grounds raised : _____

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

9 Yes ____ No ____ N/A

10 (5) Result: _____

11 (6) Date of result: _____

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

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

15 (1) Name of Court: N/A

16 (2) Nature of proceeding: _____

17 (3) Grounds raised: _____

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

19 Yes ____ No ____ N/A

20 (5) Result: _____

21 (6) Date of result: _____

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

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

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

3 (1) First petition, application or motion? N/A

4 Yes ____ No ____

5 Citation or date of decision: _____

6 (2) Second petition, application or motion?

7 Yes ____ No ____

8 Citation or date of decision: _____

9 (e) If you did not appeal from the adverse action on any petition, application or motion,
10 explain briefly why you did not. (You may relate specific facts in response to this question. Your
11 response may be included on paper which is 8 ½ x 11 inches attached to the petition. Your response
12 may not exceed five handwritten or typewritten pages in length). N/A

13 _____
14 _____
15 17. Has any ground being raised in this petition been previously presented to this or any other
16 court by way of petition for habeas corpus, motion or application or any other post-conviction
17 proceeding? If so, identify: N/A

18 (a) Which of the grounds is the same: N/A

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

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

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages
2 you have attached, were not previously presented in any other court, state or federal, list briefly what
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten
6 pages in length). ENTIRE PETITION WAS NOT PREVIOUSLY PRESENTED.
7 ATTORNEY DID NOT FILE DIRECT APPEAL.

8 19. Are you filing this petition more than one (1) year following the filing of the judgment of
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.
10 (You must relate specific facts in response to this question. Your response may be included on
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five
12 handwritten or typewritten pages in length). N/A
13
14

15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the
16 judgment under attack?

17 Yes ___ No ☒

18 If "Yes", state what court and the case number: _____
19

20 21. Give the name of each attorney who represented you in the proceeding resulting in your
21 conviction and on direct appeal: JOHN P. PARRIS, ESQ. REPRESENTED PETITIONER
22 IN THE PLEA NEGOTIATIONS AND ON DIRECT APPEAL.
23

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the
25 judgment under attack?

26 Yes ___ No ☒ If "Yes", specify where and when it is to be served, if you know: _____
27
28

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

23. (a) GROUND ONE: COUNSEL WAS INEFFECTIVE FAILING TO FILE A
TIMELY NOTICE OF APPEAL AND DIRECT APPEAL, IN VIOLATION OF THE SIXTH
AMENDMENT OF THE U.S. CONSTITUTION.

23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

1. MR. PARRIS IS THE COUNSEL REPRESENTING PETITIONER DURING TRIAL,
GUILTY PLEA NEGOTIATIONS AND ON APPEAL. BUT MR. PARRIS AND PETITIONER
HAD A VERY CONTENTIOUS RELATIONSHIP, AND WHILE PETITIONER SOUGHT
TO TERMINATE THIS RELATIONSHIP VIA A MOTION TO DISMISS COUNSEL,
FILED JULY 16, 2019, THIS COURT DENIED SAID MOTION.

2. ONE OF THE MOST NOTABLE EXAMPLES OF MR. PARRIS'S INEFFECTIVE REPRESENTATION
OF PETITIONER IS MEMORIALIZED IN A LETTER TO HON. SUSAN JOHNSON, DATED
AUGUST 9, 2019. AMONG OTHER CLAIMS, PETITIONER EXPRESSED THAT MR. PARRIS
MISINFORMED PETITIONER REGARDING THE STATUS OF THE MATERIAL WITNESS.
AT THE COMMENCEMENT OF TRIAL, HE LED PETITIONER TO BELIEVE, BY STATING
TO PETITIONER'S COUSIN, THAT THE D.A. HAD THE MATERIAL WITNESSES IN
CUSTODY (AND PREPARED TO TESTIFY):

³ IN TRUTH, HOWEVER, THE D.A. DIDN'T HAVE THE WITNESSES IN CUSTODY. I ONLY
LEARNED OF THAT FACT, AT THE END OF THE HEARING, WHEN YOU [HON. SUSAN
JOHNSON] SAID YOU WERE GOING TO RECALL THE MATERIAL WITNESS WARRANT
FOR HER [ALLEGED VICTIM]. SO I TOLD MR. PARRIS THAT THAT WAS IMPORTANT
INFORMATION THAT HE HAD NO RIGHT TO WITHHOLD FROM ME, BECAUSE I WOULD
NOT HAVE PLED GUILTY. I INSISTED, INSTEAD, UPON COMMENCING WITH THE TRIAL

1 ALREADY UNDERWAY. EMPHASIS ADDED. EXHIBIT A

2
3 3. THE CASE SUMMARY FOR AUGUST 20, 2019 STATES:

4 "DEFENDANT INDICATED HE WANTED TO APPEAL. MR. PARRIS STATED
5 HE WOULD FILE A NOTICE OF APPEAL." EXHIBIT B

6 4. AND MR. PARRIS DID SO; HOWEVER, HE FILED THE NOTICE OF APPEAL, SEPTEMBER
7 24, 2019 EXHIBIT C, EXACTLY ONE DAY AFTER PETITIONER'S JUDGMENT OF
8 CONVICTION WAS ENTERED AUGUST 23, 2019. EXHIBIT D

9 5. THIS MADE PETITIONER'S APPEAL PROCEDURALLY BARRED BY EXACTLY 1 DAY,
10 RESULTING IN DISMISSAL OF PETITIONER'S APPEAL BY THE NEVADA
11 SUPREME COURT. EXHIBIT E

12 6. DUE TO THE NATURE OF PETITIONER'S AND MR. PARRIS'S CONTENTIOUS
13 RELATIONSHIP, AND THE AFOREMENTIONED FACTS, PETITIONER ASSERTS
14 MR. PARRIS INTENTIONALLY FILED THE NOTICE OF APPEAL LATE.

15 7. APPELLATE COUNSEL, MR. PARRIS'S FILING THE NOTICE OF APPEAL EXACTLY
16 ONE DAY LATE, AFTER STATING ON THE RECORD HE WOULD FILE THE NOTICE
17 OF APPEAL IS OBJECTIVELY UNREASONABLE. AND PREJUDICED PETITIONER
18 BECAUSE, PETITIONER HAS REVERSABLE CLAIMS, AND WERE IT NOT FOR
19 APPELLATE COUNSEL'S INTENTIONAL ERROR OF FILING THE NOTICE OF
20 APPEAL LATE, PETITIONER WOULD HAVE PREVAILED ON APPEAL.

21 8. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE THE INEFFECTIVENESS
22 OF COUNSEL IN THIS MATTER. AND PETITIONER'S DIRECT APPEAL BEING
23 LOST AS A REMEDY, PETITIONER BE PERMITTED TO WITHDRAW HIS GUILTY
24 PLEA TO REMEDY COUNSEL'S LOSING PETITIONER'S POSTCONVICTION/DIRECT
25 APPEAL.
26
27
28

23. (b) GROUND TWO: PETITIONER WAS DENIED DUE PROCESS WHEN
THE DISTRICT COURT FAILED TO TOLL TIMELINESS OF APPEAL, IN VIOLATION
OF THE FIFTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

1. THE CASE SUMMARY FOR AUGUST 20, 2019 STATES:

"DEFENDANT INDICATED HE WANTED TO APPEAL. MR. PARRIS
STATED HE WOULD FILE A NOTICE OF APPEAL."

EXHIBIT B

2. HERE PETITIONER GAVE AN ORAL NOTICE OF APPEAL IN OPEN COURT,
3 DAYS PRIOR TO ENTRY OF THE JUDGMENT OF CONVICTION, AUGUST 23, 2019.
EXHIBIT D. BECAUSE HIS ORAL NOTICE OF APPEAL WAS BEFORE ENTRY
OF THE JUDGMENT OF CONVICTION, IT WAS PREMATURE. PETITIONER ASSERTS
THAT PREMATURE NOTICE OF APPEAL DATES TO THE TIME OF ENTRY OF
THE JUDGMENT OF CONVICTION, PURSUANT TO THE NEVADA RULES OF APPELLATE
PROCEDURE 54(b)(1).

3. CONSEQUENTLY, PETITIONER'S NOTICE OF APPEAL IS TOLLED FROM THE
ENTRY OF THE JUDGMENT OF CONVICTION, AUGUST 23, 2019, NOT SEPTEMBER
24, 2019, AS TOLLED BY THE DISTRICT COURT.

4. PETITIONER IS PREJUDICED BY THE LATTER DATE OF SEPTEMBER 24, 2019
BECAUSE 1). THE DATE IS PROCEDURALLY INACCURATE, AS STATED; 2).
COUNSEL FILING THE NOTICE OF APPEAL EXACTLY ONE DAY LATE, WAS
OBJECTIVELY UNREASONABLE CONSIDERING HE STATED ON THE RECORD,
ON THE SAME DAY, AT THE SAME MOMENT PETITIONER GAVE ORAL NOTICE

1 OF APPEAL, THAT HE WOULD FILE THE NOTICE OF APPEAL; AND 3). RESULTS
2 IN HIS NOTICE OF APPEAL, FILED BY COUNSEL, TO BE LATE WHICH, IN TURN,
3 HAS RESULTED IN HIS APPEAL BEING DENIED. EXHIBIT E, WHEN
4 PETITIONER EXPRESSED HIS DESIRE TO APPEAL HIS CASE AS EARLY AS
5 THE GUILTY PLEA CANVASS; JULY 17, 2018:

6
7 THE COURT: ALL RIGHT. DO YOU HAVE ANY QUESTIONS REGARDING
8 YOUR RIGHTS OR THE NEGOTIATIONS?

9 THE DEFENDANT: WHAT ARE MY REMEDIES TO FILE POST-CONVICTION
10 HABEAS CORPUS?

11 EXHIBIT G

12
13 5. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE THE PREJUDICE
14 PETITIONER SUFFERED AS A RESULT OF THE DISTRICT COURT NOT
15 PROPERLY APPLYING THE NEVADA RULES OF APPELLATE PROCEDURES
16 4(b)(1) IN THIS CASE, AND PETITIONER BE PERMITTED TO WITHDRAW
17 HIS GUILTY PLEA TO REMEDY THE DISTRICT COURT'S NOT PROPERLY APPLYING
18 NRAP 4(b)(1), CAUSING HIS DIRECT APPEAL TO BE PROCEDURALLY BARRED.
19
20
21
22
23
24
25
26
27
28

23. (c) GROUND THREE: APPELLATE COUNSEL WAS INEFFECTIVE FOR
FAILING TO RAISE ON APPEAL THAT PETITIONER WAS DENIED EFFECTIVE
ASSISTANCE OF COUNSEL AT PRELIMINARY HEARING, DUE TO CONFLICT OF
INTEREST, IN VIOLATION OF THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION.

23. (c) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

1. PETITIONER FILED 2 PRE-TRIAL MOTIONS TO DISMISS COUNSEL JEREMY
WOODS OF THE CLARK COUNTY PUBLIC DEFENDERS OFFICE. ONE WAS FILED
AUGUST 8, 2016 AND THE OTHER, APRIL 24, 2017. IN BOTH MOTIONS, PETITIONER
RAISED SPECIFIC CLAIMS RELATED TO INEFFECTIVE ASSISTANCE OF COUNSEL,
JEREMY WOODS, DURING THE PRELIMINARY HEARING.

2. BECAUSE PETITIONER'S MOTION WAS DENIED, THE PUBLIC DEFENDER'S
OFFICE CONTINUED REPRESENTING PETITIONER UNTIL A FEW DAYS BEFORE
TRIAL WHEN IT WAS "DISCOVERED" THAT THERE WAS AN ACTUAL CONFLICT
OF INTEREST: THE PUBLIC DEFENDERS OFFICE HAD PREVIOUSLY REPRESENTED THE
ALLEGED VICTIM, ANTOINETTE MARTINEZ (MARTINEZ), ON A CHARGE OF
BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE.
SPECIFICALLY, THE STATE ALLEGED MARTINEZ ATTACKED ANOTHER INDIVIDUAL
WITH A KNIFE CAUSING PUNCTURE WOUNDS AND LACERATIONS. EXHIBIT F

3. PETITIONER CONTENDS HE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL
AT HIS PRELIMINARY, DUE TO AN ACTUAL CONFLICT OF INTEREST. AND
BECAUSE HE WAS DENIED NEW COUNSEL, IN ORDER TO END THE
CONFLICT OF INTEREST, STRUCTURAL ERROR OCCURRED.

1 PETITIONER'S APPELLATE COUNSEL, MR. PARRIS, WAS AWARE OF THIS ISSUE
2 AT THE TIME HE NOTIFIED THE COURT, ON THE RECORD, THAT HE WOULD FILE
3 A NOTICE OF APPEAL ON PETITIONER'S BEHALF. EXHIBIT B

4
5 YET, MR. PARRIS OMITTED THIS ISSUE BY NOT FILING, OR RAISING, THIS
6 ISSUE ON APPEAL. MR. PARRIS ACTIONS WAS OBJECTIVELY UNREASONABLE AND
7 PREJUDICED PETITIONER, AS THIS OMITTED ISSUE HAD A HIGH LIKELIHOOD OF
8 SUCCESS ON APPEAL.

9
10 4. AN EVIDENTIARY IS WARRANTED TO DETERMINE THE INEFFECTIVENESS OF
11 APPELLATE COUNSEL OMITTING THIS ISSUE, THE EXTENT OF DAMAGE TO PETITIONER'S
12 CASE AND SUCCESS ON APPEAL HAD THIS ISSUE BEEN RAISED.
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

23. (d) GROUND FOUR: PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF
COUNSEL WHEN THE DISTRICT COURT DENIED PETITIONER'S MOTION TO REMAND
FOR NEW PRELIMINARY OR, IN THE ALTERNATIVE, MOTION TO DISMISS DUE TO
PRIOR COUNSEL'S CONFLICT OF INTEREST, IN VIOLATION OF THE SIXTH AMENDMENT.

23. (d) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

1. PETITIONER FILED HIS MOTION TO REMAND JULY 14, 2017, THE STATE FILED
ITS OPPOSITION JULY 25, 2017 AND THE DISTRICT COURT DENIED PETITIONER'S
MOTION AUGUST 30, 2017.

2. PETITIONER FILED 2 PRE-TRIAL MOTIONS TO DISMISS COUNSEL JEREMY WOODS
OF THE CLARK COUNTY PUBLIC DEFENDERS OFFICE. ONE WAS FILED AUGUST 8, 2016
AND THE OTHER, APRIL 24, 2017. IN BOTH MOTIONS, PETITIONER RAISED SPECIFIC
CLAIMS RELATED TO INEFFECTIVE ASSISTANCE OF COUNSEL, JEREMY WOODS,
DURING THE PRELIMINARY HEARING.

3. BECAUSE PETITIONER'S MOTION WAS DENIED, THE PUBLIC DEFENDERS OFFICE
CONTINUED REPRESENTING PETITIONER UNTIL A FEW DAYS BEFORE TRIAL
WHEN IT WAS "DISCOVERED" THAT THERE ACTUALLY WAS A CONFLICT OF INTEREST:
THE PUBLIC DEFENDERS OFFICE PREVIOUSLY REPRESENTED THE ALLEGED VICTIM,
ANTOINETTE MARTINEZ (MARTINEZ), ON A CHARGE OF BATTERY WITH THE USE
OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE. SPECIFICALLY, THE
STATE ALLEGED MARTINEZ ATTACKED ANOTHER INDIVIDUAL WITH A KNIFE
CAUSING PUNCTURE WOUNDS AND LACERATIONS. EXHIBIT F

1 4. THE DISTRICT COURT COMPELLED PETITIONER TO CONTINUE BEING REPRESENTED
2 BY COUNSEL AFTER RAISING INEFFECTIVENESS CLAIMS WHICH, AS IT TURNED
3 OUT, THERE WAS AN ACTUAL CONFLICT OF INTEREST AMOUNTING TO INEFFECTIVE
ASSISTANCE OF COUNSEL.

4 5. ~~BY~~ THE TIME THE CONFLICT WAS "DISCOVERED," THE PUBLIC DEFENDERS OFFICE
5 HAD REPRESENTED PETITIONER AT EVERY STAGE OF THE CRIMINAL PROCESS:
6 FROM THE PRELIMINARY HEARING UP TO A FEW DAYS BEFORE TRIAL. CONSEQUENTLY,
PETITIONER'S ENTIRE CASE IS UNDERMINED BY SAID INEFFECTIVENESS.

7 6. WERE IT NOT FOR THE DISTRICT COURT'S ERROR IN DENYING PETITIONER'S
8 MOTION TO REMAND BECAUSE OF SAID CONFLICT OF INTEREST, RESULTING
9 IN INEFFECTIVE ASSISTANCE OF COUNSEL, PETITIONER'S CASE WOULD'VE
10 HAD A DIFFERENT OUTCOME, AS HE WOULD NOT HAVE PLEA GUILTY PURSUANT
11 TO A GUILTY PLEA AGREEMENT.

12 7. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE THE INEFFECTIVE
13 ASSISTANCE OF COUNSEL CAUSED BY THE DISTRICT COURT'S DENIAL OF THE
14 MOTION TO REMAND. AND PETITIONER'S JUDGMENT OF CONVICTION BE VACATED
15 AS IT IS BASED ON A PLEA AGREEMENT ACQUIRED BY COURT-CREATED
16 INEFFECTIVE ASSISTANCE OF COUNSEL.
17
18
19
20
21
22
23
24
25
26
27
28

1 (E) GROUND FIVE' PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF
2 COUNSEL WHEN COUNSEL WITHHELD INFORMATION FROM PETITIONER TO GET
3 PETITIONER TO PLEAD GUILTY, IN VIOLATION OF THE SIXTH AMENDMENT OF
4 THE U.S. CONSTITUTION.

5 (E) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

6 1. PETITIONER WROTE A LETTER TO HON. SUSAN JOHNSON, DATED AUGUST 9, 2019.
7 THE LETTER STATED THE FOLLOWING SERIOUS MATTERS:

8 A. COUNSEL LED PETITIONER TO BELIEVE, BY STATING TO PETITIONER'S
9 COUSIN, THAT THE STATE HAD THE MATERIAL WITNESS IN CUSTODY (AND PREPARED
10 TO TESTIFY)

11 "IN TRUTH, HOWEVER, THE D.A. DIDN'T HAVE THE WITNESS IN CUSTODY.
12 I ONLY LEARNED OF THAT FACT, AT THE END OF THE HEARING, WHEN YOU [HON.
13 SUSAN JOHNSON] SAID YOU WERE GOING TO RECALL THE MATERIAL WITNESS
14 WARRANT FOR HER [ALLEGED VICTIM]. SO I TOLD MR. PARRIS THAT THAT WAS
15 IMPORTANT INFORMATION THAT HE HAD NO RIGHT TO WITHHOLD FROM ME, BECAUSE
16 I WOULD NOT HAVE PLEADED GUILTY. I INSISTED, INSTEAD, UPON COMMENCING
17 WITH THE TRIAL ALREADY UNDERWAY." EXHIBIT A

18
19 B. COUNSEL ATTEMPTED TO RUSH THE PLEA BARGAINING PROCESS
20 AND SENTENCE WITHOUT PROPERLY REVIEWING A YEAR-OLD PSI OR ALLOWING
21 PETITIONER TIME TO REVIEW THE PSI.

22 "I ALSO CLEARLY TOLD MR. PARRIS THAT I WOULD NOT SIGN THE PLEA
23 AGREEMENT, IF HE WAS TRYING TO GET ME SENTENCED THE SAME DAY WITH
24 A PSI REPORT THAT HE HAD, WHICH WAS ABOUT A YEAR OLD. THIS WAS SAID,
25 BECAUSE I HAD ALSO NEVER SEEN THIS REPORT, WHICH HAS ERRONEOUS INFORMATION-
26 AND I HAVE A RIGHT TO REVIEW THE PSI, AND GO OVER IT WITH MY ATTORNEY
27 BEFORE I GET SENTENCED.

1 COUNSEL'S ACTIONS WERE OBJECTIVELY UNREASONABLE AS IT UNDOUBTLY CONTRIBUTED
2 TO PETITIONER TAKING A PLEA DEAL HE REALLY DIDN'T WANT TO TAKE. AS PETITIONER
3 CLEARLY STATED IN HIS LETTER TO THE JUDGE HON. SUSAN JOHNSON, WERE IT NOT
4 FOR COUNSEL WITHHOLDING INFORMATION ABOUT THE MATERIAL WITNESS'S
5 STATUS DURING TRIAL, HE WOULD NOT HAVE ACCEPTED THE PLEA. BUT WOULD'VE
6 INSISTED ON GOING TO TRIAL.
7

8 2. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE THE INEFFECTIVE
9 ASSISTANCE OF COUNSEL IN THIS MATTER. AND PETITIONER'S JUDGMENT OF
10 CONVICTION BE VACATED AS IT IS BASED UPON A PLEA AGREEMENT ACQUIRED
11 THROUGH INEFFECTIVE ASSISTANCE OF COUNSEL.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 (F) GROUND SIX PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL
2 WHEN COUNSEL MISLED PETITIONER REGARDING DEFENSE EXPERT WITNESS'S
3 AVAILABILITY FOR TRIAL, IN VIOLATION OF THE SIXTH AMENDMENT OF THE
4 U.S. CONSTITUTION.

5 (F) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

6 1. PETITIONER WROTE A LETTER DATED AUGUST 9, 2019, PETITIONER INFORMED
7 THE JUDGE, HON. SUSAN JOHNSON, THAT HIS COUNSEL MISLEAD HIM REGARDING
8 THE AVAILABILITY OF DEFENSE EXPERT WITNESS.

9
10 "HE THEN TELLS ME THAT OUR MEDICAL EXPERT WITNESS, DR. HAN, COULD NOT BE
11 FOUND, SO THE TRIAL WILL BE PUSHED BACK UNTIL DECEMBER. THEN AFTER
12 HE RETURNS TO THE HOLDING TANKS, HE TELLS ME THAT THE JUDGE SAID "NO,
13 WE ARE GOING TO TRIAL"... EXHIBIT A

14
15 2. COUNSEL THEN, AT THAT MOMENT, OFFERED PETITIONER A PLEA DEAL.

16
17 3. THE TESTIMONY OF EXPERT WITNESS DR. HAN WAS CRITICAL TO THE DEFENSE.
18 DR. HAN WAS THE ATTENDING PHYSICIAN OF THE ALLEGED VICTIM. AND HIS
19 TESTIMONY CENTERED ON THE FACT THE VICTIM WAS NOT ATTACKED WITH
20 A KNIFE; THAT THE INJURY TO HER EAR WAS CONSISTENT WITH AN EAR RING,
21 NOT A KNIFE. EXHIBIT H

22
23 4. THIS IS A CRITICAL PIECE OF EVIDENCE IN PETITIONER'S CASE, AND GAVE
24 PETITIONER SOLID CONFIDENCE IN ACQUITTAL AT TRIAL. HOWEVER, WITHOUT
25 SAID TESTIMONY, PETITIONER'S CONFIDENCE WAS DIMINISHED.

1 5. COUNSEL MISADVISED AND MISLED PETITIONER TO BELIEVE DR. HAN
2 WOULD BE UNAVAILABLE AT TRIAL, DESTROYED PETITIONER'S CONFIDENCE
3 IN A FAVORABLE OUTCOME AT TRIAL, THEN, AT THAT MOMENT, OFFERED
4 PETITIONER A PLEA DEAL,

5 6. COUNSEL'S ACTIONS WAS OBJECTIVELY UNREASONABLE AND SERVED ONLY
6 TO BAIT PETITIONER INTO TAKING A PLEA DEAL. PETITIONER IS PREJUDICED
7 BY THIS BECAUSE, WERE IT NOT FOR COUNSEL'S CALCULATED MISGUIDANCE
8 ABOUT THIS CRITICAL EXPERT WITNESS, PETITIONER WOULD'VE INSISTED
9 ON GOING TO TRIAL.

10 7. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE THE INEFFECTIVE
11 OF COUNSEL IN THIS MATTER. AND PETITIONER'S JUDGMENT OF CONVICTION
12 BE VACATED AS IT IS BASED UPON A PLEA AGREEMENT ACQUIRED
13 THROUGH INEFFECTIVE ASSISTANCE OF COUNSEL.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 (G) GROUND SEVENTH PETITIONER WAS DENIED DUE PROCESS WHEN THE
2 DISTRICT COURT REFUSED TO ALLOW PETITIONER TO WITHDRAW THE GUILTY PLEA
3 BASED UPON WITHHELD INFORMATION, EVIDENCE AND ISSUES SURROUNDING THE
4 PSI, IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION.

5 (G) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____

6 1. PETITIONER SENT AN EX PARTE LETTER TO JUDGE'S CHAMBERS, HON. SUSAN
7 JOHNSON, AUGUST 9, 2020 RAISING SERIOUS CLAIMS:

8 A. COUNSEL LED PETITIONER TO BELIEVE, BY STATING TO PETITIONER'S COUSIN,
9 THAT THE STATE HAD THE MATERIAL WITNESS IN CUSTODY (AND PREPARED TO
10 TESTIFY)

11 B. COUNSEL ATTEMPTED TO RUSH THE PLEA BARGAINING PROCESS AND SENTENCE
12 WITHOUT PROPERLY REVIEWING A YEAR-OLD PSI OR ALLOWING PETITIONER
13 TIME TO REVIEW THE PSI WITH COUNSEL.

14 C. COUNSEL MISLED PETITIONER REGARDING THE AVAILABILITY OF DEFENSE
15 EXPERT WITNESS.

16
17 2. PETITIONER'S EX PARTE LETTER TO HON. SUSAN JOHNSON DEMONSTRATED THE
18 AFOREMENTIONED FACTS CONTRIBUTED TO PETITIONER TAKING THE PLEA
19 DEAL AND THAT, WERE IT NOT FOR THESE FACTS, PETITIONER WOULD NOT
20 HAVE PLEADED GUILTY, OR ACCEPTED THE GUILTY PLEA.

21
22 3. HON. SUSAN JOHNSON RECEIVED PETITIONER'S EX PARTE LETTER AND STATED
23 IT ON THE RECORD, EXHIBIT B. HOWEVER, SHE DENIED PETITIONER'S REQUEST
24 AND MOTION TO WITHDRAW THE GUILTY PLEA AT THE AUGUST 20, 2020
25 HEARING.

1 4. NONE OF THE CLAIMS IN PETITIONER'S EX PARTE LETTER WAS CONSIDERED TO
2 DETERMINE WHETHER TO ACCEPT PETITIONER'S GUILTY PLEA. PETITIONER IS
3 PREJUDICED BECAUSE ALL PETITIONER'S CONSTITUTIONAL RIGHTS WERE
4 WAIVED BECAUSE OF THE PLEA DEAL, LED TO PETITIONER PLEADING GUILTY
5 WHEN HE WOULD'VE INSISTED ON GOING TO TRIAL, NOT WAIVING SAID RIGHTS
6 AS WELL AS HIS RIGHTS TO LIBERTY WITHOUT TRIAL.

7 5. AN EVIDENTIARY HEARING IS WARRANTED TO DETERMINE HOW PREJUDICED
8 PETITIONER'S DENIAL OF DUE PROCESS WAS, AND TO ALLOW PETITIONER'S
9 JUDGMENT OF CONVICTION TO BE VACATED BECAUSE IT WAS BASED UPON
10 A PLEA AGREEMENT ACQUIRED BY FIRST DENYING HIM DUE PROCESS OF LAW.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 (H) GROUND EIGHT PETITIONER WAS DENIED DUE PROCESS OF LAW
2 WHEN THE STATE FAILED TO DISMISS CASE PURSUANT TO GUILTY PLEA AGREEMENT,
3 IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION.

4
5 (H) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

6 1. PETITIONER HAD ANOTHER CASE NO. # C-16-314167-1 WITH AN ALLEGED VICTIM,
7 SAVANNAH TAYLOR. EXHIBIT I. AND THIS CASE IS UNRELATED TO THE CASE
8 FOR WHICH PETITIONER ULTIMATELY ACCEPTED THE PLEA AGREEMENT, CASE NO.
9 C-16-314359-1, WITH ALLEGED VICTIM ANTOINETTE MARTINEZ. EXHIBIT J

10
11 2. HOWEVER, ODD AS IT MAY SEEM, AFTER PETITIONER ACCEPTED THE PLEA
12 AGREEMENT, ANOTHER AMENDED INFORMATION WAS FILED IN OPEN COURT
13 ALONG WITH THE GUILTY PLEA AGREEMENT, ON AUGUST 6, 2019.

14
15 3. THE SECOND AMENDED INFORMATION FILED IN OPEN COURT WITH THE GUILTY
16 PLEA AGREEMENT, HAD A CHARGE OF PANDERING CATEGORY C FELONY - NRS
17 20A.300.1 - NOC 51000. EXHIBIT K.

18
19 4. THE MOST IMPORTANT PORTION OF THIS PANDERING CHARGE IS THAT IT IS
20 FOR THE ALLEGED VICTIM OF PETITIONER'S OTHER CASE, NOT THE CASE
21 FOR WHICH PETITIONER ACCEPTED THE GUILTY PLEA AGREEMENT. SPECIFICALLY,
22 THE CHARGE RELATED:

23
24 "COUNT 4 - PANDERING

25 DID ON OR BETWEEN JUNE 1, 2013 AND JUNE 1, 2016, WILLFULLY, UNLAWFULLY,
26 AND FELONIOUSLY IN SAVANNAH TAYLOR TO UNLAWFULLY BECOME
27 A PROSTITUTE AND/OR TO CONTINUE TO ENGAGE IN PROSTITUTION".
28

1 EXHIBIT K PAGE 2 LINES 15-18.

2
3 IRONICALLY, THIS CHARGE AND THE FACTS SURROUNDING THIS CHARGE,
4 IS THE VERY CASE THE STATE AGREED TO DISMISS:

5 "THE STATE AGREES TO DISMISS CASE C316167 AFTER REVISION OF
6 SENTENCE".

7 EXHIBIT L PAGE 1 LINES 25-26, WHICH IS THE
8 CASE WITH SAVANNAH TAYLOR.

9
10 5. CONSEQUENTLY, THE STATE DID NOT DISMISS THE OTHER CASE, AS THEY
11 STIPULATED THEY WOULD IN THE GUILTY PLEA AGREEMENT. RATHER, THEY
12 DISMISSED THE CASE NUMBER, BUT RE-FILED ALL THE FACTS OF THE
13 CASE UNDER "PANDERING", ATTACHED IT TO THE CASE FOR WHICH PETITIONER
14 ACCEPTED THE GUILTY PLEA AGREEMENT, AND CONVICTED HIM OF IT.

15 6. PETITIONER WAS NOT AWARE THIS WAS HAPPENING UNTIL IT WAS TOO LATE.
16 AND WHEN HE ATTEMPTED TO WITHDRAW HIS GUILTY PLEA AUGUST 20, 2020,
17 HIS REQUEST AND MOTION WAS DENIED. EXHIBIT B

18 7. PETITIONER WAIVED SUBSTANTIAL, FUNDAMENTAL RIGHTS IN ACCEPTING THE
19 GUILTY PLEA, SUCH AS, BUT NOT LIMITED TO, THE RIGHT TO TRIAL, CONFRONTATION,
20 AND THE RIGHT TO APPEAL, AND CONSEQUENTLY, WAS PREJUDICED WHEN THE
21 STATE FAILED TO DISMISS THE CHARGE(S) - INCLUDING THE FACTS THEREOF -
22 OF THE OTHER CASE BECAUSE, BUT FOR THIS, PETITIONER WOULD NOT HAVE
23 ACCEPTED THE PLEA, BUT WOULD'VE INSISTED ON GOING TO TRIAL.

24 8. AN EVIDENTIARY HEARING IS WARRANTED, AND PETITIONER'S JUDGMENT OF
25 CONVICTED BE INVALIDATED BECAUSE IT IS BASED UPON A GUILTY PLEA
26 AGREEMENT ACQUIRED BY VIOLATING PETITIONER'S RIGHT TO DUE PROCESS.
27
28

1 WHEREFORE, Craig Rodgers, prays that the court grant petitioner
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at SOUTHERN DESERT CORRECTIONAL CENTER, INDIAN SPRINGS, NEVADA.
4 on the 17th day of AUGUST, 2020.

5
6 Craig Rodgers
7 Signature of Petitioner
8 CRAIG RODGERS

9 VERIFICATION

10 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is
11 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is
12 true and correct of his own personal knowledge, except as to those matters based on information and
13 belief, and to those matters, he believes them to be true.

14 Craig Rodgers
15 Signature of Petitioner
16 CRAIG RODGERS

17 N/A

18 Attorney for Petitioner
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE BY MAILING

I, CRAIG RODGERS, hereby certify, pursuant to NRCP 5(b), that on this 17th
day of August, 2020, I mailed a true and correct copy of the foregoing, "PETITION
FOR A WRIT OF HABEAS CORPUS"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

AARON FORD, ATTORNEY GENERAL
100 NORTH CARSON ST.
CARSON CITY, NV 89701-4717

STEVEN D. GRIERSON
CLERK OF THE COURT
200 LEWIS AVE.
LAS VEGAS, NV 89155-1160

WILLIAM HUTCHINGS, WARDEN, SOCC
20925 GOLD CREEK RD
INDIAN SPRINGS, NV 89010-0001

STEVEN D. WOLFSON, DISTRICT ATTORNEY
OFFICE OF THE DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

CC:FILE

DATED: this 17th day of August, 2020.

Craig Rodgers
CRAIG RODGERS #1221816 #
PETITIONER /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 _____

PETITION FOR A WRIT OF HABEAS CORPUS
(Title of Document)

filed in District Court Case number C-16-314359-1

☒ 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.

Craig Rodgers
Signature

8-17-20
Date

CRAIG RODGERS
Print Name

N/A
Title

EXHIBIT

A

PETITIONER'S LETTER TO HON. SUSAN JOHNSON
DATED AUGUST 8, 2019
3 PAGES

EXHIBIT

A

CRAIG RODGERS - 1680324

Case # C-16-314359

CLARK COUNTY DETENTION CENTER

THE EIGHTH JUDICIAL DISTRICT JUDGE, Dept. XXII

SUSAN JOHNSON

RE: Plea entered on 8-6-2019

Dear Honorable Susan Johnson,

I am writing this letter for a few different reasons. First and foremost, I was lied to by my lawyer, Mr. Parris. He told me that the State's alleged witness said she was sick. But when I spoke to my cousin that same night, Mr. Parris told him that the witness did not want to testify, despite the fact that Parris had been previously telling me that the D.A. had the alleged witness in custody. In truth, however, the D.A. didn't have the witness in custody. I only learned of that fact, at the end of the hearing, when you said you were going to recall the material witness warrant for her. So I told Mr. Parris that that was important information that he had no right to withhold from me, because I would not have plead guilty. I insisted, instead, upon commencing with the trial already underway. Because that information was not disclosed to me, by counsel who knew that there was a material witness warrant which evinced a refusal

to testify, a waiver of the right to trial cannot be deemed intelligent and voluntary if entered without knowledge of material information which, if used effectively, could have made the difference between conviction and acquittal.

I also clearly told Mr. Parris that I would not sign the plea agreement, if he was trying to get me sentenced the same day with a PSI report that he had, which was about a year old. This was said, because I had also never seen this report, which has erroneous information. And I have a right to review the PSI, and go over it with my attorney, before I get sentenced. I explained this to Mr. Parris, and he told me that that was not a problem and to not worry; but we don't want to piss off the judge by not accepting the plea today. He then tells me that our medical expert witness, Dr. Han, could not be found, so the trial will be pushed back until December. Then, after he returns to the holding tanks, he tells me that the judge said, "No," we are going to trial; but he has a new deal for me now, and I don't want to regret this offer and then piss off the judge. So I told him that I need the whole transcripts for August 5th, 6th, July 16th, 18th, and 25th in Department 22. He also told me that you, Judge Johnson, participated in the plea discussions about me only going to prison for a short time more. And the Ninth Circuit has said that a defendant who has plead guilty, after the judge has participated in plea discussions,

should be allowed to replea without having to show that actual prejudice has resulted from the participation. I further told him that I insist on having a brand new PSI too does not have any mistakes in it.

With all this said and done, I would like to withdraw my plea, dismiss Mr. Parris as counsel, and proceed to trial. Mr. Parris is clearly ineffective in withholding the aforesaid information, which was critical to me at that time. In order to correct this manifest injustice, I am informing your Honor, as I did Mr. Parris, that I would like to withdraw my plea. As the Court similarly put it: a defendant who pleads guilty, upon advice of counsel, may attack the validity of the guilty plea by showing that he received ineffective assistance of counsel under the Sixth Amendment of the United States Constitution. See, e.g., NOLLETE v. STATE, 118 Nev. 341 (2002).

DATED: 8-9-2019

RESPECTFULLY SUBMITTED,

X Oscar Ruffin

EXHIBIT

B

CASE SUMMARY FOR AUGUST 20, 2019
2 PAGES

EXHIBIT

B

LCC #001

LCC

CASE SUMMARY

CASE NO. C-16-314359-1

Continued;
Defendant Sentenced;

Journal Entry Details:

OUTSIDE THE PRESENCE OF PROSPECTIVE JURORS: Mr. Parris advised State has extended new offer. Colloquy. Second Amended Information FILED IN OPEN COURT...NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. RODGERS ARRAIGNED AND PLED GUILTY as to COUNT 1 SECOND DEGREE KIDNAPPING (F), as to COUNT 2 ROBBERY (F), as to COUNT 3 MAYHEM (F) and as to COUNT 4 PANDERING (F). Court ACCEPTED plea. Mr. Rose requested sentencing go forward today and advised Presentence Investigation Report (PSI) has been completed previously. As to the PSI, Mr. Rose stated, page 4, under Adult, Arrest Date of April 20, 2001, was treated under NRS 453.3363, Deft. received honorable discharge from probation, case has been dismissed and requested to strike 2001 conviction. COURT ORDERED, pursuant to Stockmeier, the April 20, 2001, arrest date is STRICKEN. Further, Mr. Rose stated he has a restitution request but does not have any supporting documentation and requested to set matter in two weeks. Mr. Parris stated he was not counsel when PSI was prepared and has not spoken to Deft. about this. Mr. Rose stated he can have documentation within the next two weeks. Mr. Parris stated he has no objection with the Court retaining jurisdiction as to restitution. DEFT. RODGERS ADJUDGED GUILTY as to COUNT 1 SECOND DEGREE KIDNAPPING (F), as to COUNT 2 ROBBERY (F), as to COUNT 3 MAYHEM (F) and as to COUNT 4 PANDERING (F). Arguments by counsel. Further, Mr. Parris requested page 5 of the PSI indicating the District Court, Department XXIII case, arrest date of May 11, 2016, which has now been dismissed, be stricken. Statement by Deft. Colloquy. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$3.00 DNA Collection fee, Deft. SENTENCED as to COUNT 1 to a MINIMUM of FORTY-EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC), as to COUNT 2 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 1, as to COUNT 3 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT with COUNT 2 and as to COUNT 4 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT with COUNT 3 with ONE THOUSAND TWO HUNDRED EIGHTEEN (1218) DAYS credit for time served. FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted. Matter SET for restitution hearing and status check. All State's proposed exhibits returned to counsel. TOTAL AGGREGATE: MINIMUM of SEVENTY-TWO (72) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS. PROSPECTIVE JURORS PRESENT: Court thanked and excused prospective jurors. CUSTODY 8/20/19 8:30 AM RESTITUTION HEARING...STATUS CHECK: STOCKMEIER ISSUES;

Continued;
Defendant Sentenced;


Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL. Mr. Parris requested time to speak with the Defendant about possible negotiations. Court noted its concern that Defendant previously accepted a deal at trial, which was then withdrawn with the stipulation of the State. State advised the issue was that the Defendant has a companion case and would request the Defendant enter pleas in both cases today. Matter TRAILED. Matter RECALLED. Mr. Parris advised the Defendant has rejected the offer. State advised the offer is now revoked. State requested the Second Amended Information filed 7/17/18 be STRICKEN and that they proceed with the Amended Information filed 7/13/18. COURT SO ORDERED. Statement by Defendant requesting a continuance. COURT ORDERED, oral Motion to Continue DENIED. Mr. Parris advised the Defendant has a family member present who was told he was unable to stay during jury selection due to the room needed in the courtroom, however, Mr. Parris requested an accommodation be made. Court advised it will attempt to find a place for him once the jury panel is in the room. PROSPECTIVE JURY PANEL PRESENT. Voir dire. COURT ORDERED, matter CONTINUED. Evening recess. CONTINUED TO: 8/6/19 1:00 PM;

08/06/2019 **CANCELED Minute Order (3:52 PM)** (Judicial Officer: Johnson, Susan)
Vacated - On in Error
Minute Order: Entry of Plea

08/20/2019 **Hearing (8:30 AM)** (Judicial Officer: Johnson, Susan)
Restitution Hearing
Matter Heard;

08/20/2019 **Status Check (8:30 AM)** (Judicial Officer: Johnson, Susan)
Status Check: Stockmeier Issues
Matter Heard;

08/20/2019  **All Pending Motions (8:30 AM)** (Judicial Officer: Johnson, Susan)
Matter Heard;
Journal Entry Details:

CASE SUMMARY

CASE NO. C-16-314359-1

RESTITUTION HEARING....STATUS CHECK: STOCKMEIER ISSUES Court noted it received an ex parte letter. Mr. Rose advised the State would not be requesting restitution today. Court further noted it would not entertain any more motions to withdraw the guilty plea. The Stockmeier issues would have to be handled. Mr. Parris addressed the inaccuracies in the Pre-Sentence Investigation (PSI). Court noted the medical issues could be addressed by the prison system. COURT ORDERED, matter TRAILED. MATTER RECALLED: All parties present as before. Court advised it was leaning towards denying the motion; however it would like to hear some matters first. Mr. Rose requested that everything in section two be stricken being that it was inaccurate at this point. Mr. Parris indicated he agreed noting it was a factual accurate decision. COURT ORDERED, section two STRICKEN as well as corrections to Defendant's social security numbers. COURT FURTHER ORDERED, page four, the disposition STRICKEN with respect to the arrest on April 20, 2001 reflect there was dismissal. As to page seven, Mr. Rose indicated roman numeral nine reflected what had been negotiated previously. Mr. Rose requested that be stricken so there was not confusion when Defendant was sent to the prison about whether he was pleading to negotiations versus what the JOC indicated; therefore, it was requested to strike everything in roman numeral nine. Mr. Parris stated no objection. COURT ORDERED, everything STRICKEN under plea negotiations section roman numeral nine on page seven. Mr. Rose advised he would leave and was available as needed. DEPUTY DISTRICT ATTORNEY STEVEN ROSE NOT PRESENT at 11:16 a.m. Further discussions regarding striking roman numeral ten of the PSI. Court noted although it would listen to Mr. Rose first, with respect to count one, first degree kidnapping, the Court had no issue striking that. Further discussions regarding Stockmeier issues and Defendant's letter. Mr. Parris made representations regarding Defendant's letter. Defendant indicated he wanted to appeal. Mr. Parris stated he would file a Notice of Appeal. At the hour of 12:18 p.m. Deputy District Attorney Steven Rose now present. Court noted it considered removing count one under recommendations of the PSI. Mr. Rose stated no objection. COURT ORDERED, PSI amended / deletion of count one under recommendations, roman numeral ten of the PSI. COURT FURTHER ORDERED, Defendant's request to withdraw his Guilty Plea DENIED.;

DATE

FINANCIAL INFORMATION

Defendant Rodgers, Craig
 Total Charges
 Total Payments and Credits
 Balance Due as of 12/6/2019

28.00
 0.00
 28.00



A CENTURY OF SERVICE

COMMISSIONERS

Steve Sisolak, Chair
Larry Brown, Vice-Chair
James B. Gibson
Susan Brager
Marilyn Kirkpatrick
Chris Giunchigliani
Lawrence Weekly

COUNTY MANAGER
Yolanda King

ASST. SPECIAL PUB. DEF.
Randall H. Pike

Office of the Special Public Defender

330 S. Third Street, 8th Floor, Las Vegas NV 89101

(702) 455-6265/6266

Fax (702) 455-6273

December 5, 2017

Mr. Craig Rodgers #1680324
Clark County Detention Center
330 South Casino Center Blvd.
Las Vegas, Nevada 89101

Re: C-16-314359-1; C-16-316167-1

Dear Mr. Rodgers:

This letter is to inform you with regard to some recent developments that may have an effect on our continued representation of you in the above referenced cases. As you already know, when the public defender represented you, they obtained your cellular telephone from your property at the Clark County Detention Center. Once our office was appointed to represent you, this cellular telephone was turned over to our assigned investigator for safe keeping in order to maintain the chain of custody.

In August, 2017, however, the assigned investigator resigned and all the cases, including yours, were re-assigned to other investigators. It was during this re-assignment that your cellular telephone was either lost or stolen, however, the loss remained undiscovered until approximately two weeks ago.

When we discovered that no investigator had taken custody of the cell phone, an office-wide search ensued. Calls were made to the prior investigator, the office was physically searched and all files that had been closed since the investigator resigned were pulled from storage and searched just in case the phone had been mis-filed. We're sorry to say that we have not been successful in locating the cellular telephone.

We do, however, maintain the evidence previously taken from your cellular telephone - including the photos of Annette Martinez, your injuries from that incident and the text messages. With regard to the case involving Savannah Taylor, we have audio files of conversations (which may or may not have come from the cellular telephone), Facebook posts and Facebook Messenger posts.

Mr. Craig Rodgers
December 5, 2017
Page Two

Although this letter is to advise you of the loss of the telephone, rest assured that our search will continue and, if the telephone does turn up, you will be immediately notified. We also understand, however, that the loss of this telephone may cause you to lose confidence in our ability to handle your cases. Accordingly, if you feel that you are no longer able to trust us to adequately represent you, please advise and a motion to withdraw will be immediately filed on your behalf.

Sincerely,

A handwritten signature in black ink, appearing to be 'MS' or similar initials, written in a cursive style.

Melinda E. Simpkins, Esq.
Daniel R. Page, Esq.

EXHIBIT

C

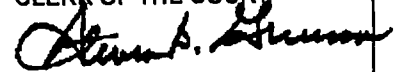
NOTICE OF APPEAL
FILED SEPTEMBER 24, 2019
2 PAGES

EXHIBIT

C

LCC #001

LCC



NOASC

JOHN P. PARRIS, ESQ.
Nevada Bar No. 7479
LAW OFFICES OF JOHN P. PARRIS
324 South 3rd Street, Suite 200
Las Vegas, NV 89101
Tel. (702) 387-2000
Attorney for Craig Rodgers

Electronically Filed
Oct 01 2019 09:34 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

CRAIG RODGERS, #1680324,

Defendant.

Case No.
Dep't No.

C-16-314359-1
XXII

NOTICE OF APPEAL

Notice is hereby given that Craig Rodgers, defendant in the above-entitled action, appeals to the Supreme Court of Nevada from the Judgment of Conviction filed August 23, 2019.

DATED this September 23, 2019.

/s/ John Parris

JOHN P. PARRIS, ESQ.
Nevada Bar No. 7479
LAW OFFICES OF JOHN P. PARRIS
324 South 3rd Street, Suite 200
Las Vegas, NV 89101
(702) 387-2000
Attorney for Craig Rodgers

EXHIBIT

D

JUDGEMENT OF CONVICTION
FILED AUGUST 23, 2019
2 PAGES

EXHIBIT

D

Steven D. Grierson

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CRAIG RODGERS
aka Craig Allen Rodgers
#1680324

Defendant.

CASE NO. C-16-314359-1

DEPT. NO. XXII

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – SECOND DEGREE KIDNAPPING (Category B Felony) in violation of NRS 200.310, 200.330; COUNT 2 – ROBBERY (Category B Felony) in violation of NRS 200.380; COUNT 3 – MAYHEM (Category B Felony) in violation of NRS 200.280; and COUNT 4 – PANDERING (Category C Felony) in violation of NRS 201.300.1; thereafter, on the 6th day of August, 2019, the Defendant was present in court for sentencing with counsel JOHN P. PARRIS, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment and \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: **COUNT 1** – a

<input type="checkbox"/> Trial (Prosecute before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Acquittal (before trial)	<input type="checkbox"/> Acquittal	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Conviction (before/during trial)	<input type="checkbox"/> Conviction	<input type="checkbox"/> Conviction
Other Method of Disposition		
Case Number: C-16-314359-1		

1 MAXIMUM of ONE HUNDRED EIGHTY(180) MONTHS with a MINIMUM Parole Eligibility of
2 FORTY-EIGHT (48) MONTHS; **COUNT 2** – a MAXIMUM of SIXTY (60) MONTHS with a
3 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE to COUNT 1;
4 **COUNT 3** – a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of
5 TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 2; and **COUNT 4** – a
6 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
7 MONTHS, CONCURRENT with COUNT 3; with ONE THOUSAND TWO HUNDRED
8 EIGHTEEN (1,218) DAYS credit for time served. As the \$150.00 DNA Analysis Fee and
9 Genetic Testing have been previously imposed, the Fee and Testing in the current case are
10 WAIVED. The AGGREGATE TOTAL sentence is TWO HUNDRED FORTY (240) MONTHS
11 MAXIMUM with a MINIMUM of SEVENTY-TWO (72) MONTHS.
12

13 **FINDINGS AND CORRECTIONS TO THE PRESENTENCE INVESTIGATION**

14 **REPORT (PSI) PURSUANT TO STOCKMEIER:** The COURT FINDS the PSI inaccurate as
15 to page 4, under Adult, Arrest Date of April 20, 2001, and indicates was treated under NRS
16 453.3363, which is inaccurate and ORDERED STRICKEN, as Defendant received honorable
17 discharge from probation, and case has been dismissed.
18

19 DATED this 22nd day of August, 2019.

20
21 
22 SUSAN JOHNSON
23 DISTRICT COURT JUDGE
24
25
26
27
28

EXHIBIT E

NEVADA SUPREME COURT ORDER DISMISSING
APPEAL
FILED NOVEMBER 25, 2019
2 PAGES

EXHIBIT E

#001

LCC

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79714

FILED

NOV 25 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a direct appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

This court's preliminary review of this appeal revealed a jurisdictional defect. Specifically, the district court entered the judgment of conviction on August 23, 2019. Appellant did not file the notice of appeal, however, until September 24, 2019, one day after the expiration of the 30-day appeal period prescribed by NRAP 4(b). An untimely notice of appeal fails to vest jurisdiction in this court. *See Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994). Accordingly, on October 8, 2019, this court ordered appellant's counsel to show cause why this appeal should not be dismissed. In response, counsel concedes that the notice of appeal was untimely, but asks this court to allow the appeal to proceed under NRAP 4(c).¹ An appeal deprivation claim may be raised in a timely-filed postconviction petition for a writ of habeas corpus. NRAP 4(c); NRS 34.726; *Lozada*, 110 Nev. at 359,

¹Notwithstanding its untimeliness and cause appearing, the motion for an extension of time to file a response to this court's order to show cause is granted. The response was filed on October 30, 2019.

871 P.2d at 950. Because the notice of appeal was untimely filed, this court lacks jurisdiction to entertain this appeal and

ORDERS this appeal DISMISSED.

1 Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. Susan Johnson, District Judge
Law Offices of John P. Parris
Attorney General/Carson City
Clark County District Attorney
Craig Allen Rodgers
Eighth District Court Clerk

EXHIBIT

F

CRIMINAL COMPLAINT
AGAINST ANTOINETTE MARTINEZ
2 PAGES

EXHIBIT

F

FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

NOV 20 2 26 PM '12

THE STATE OF NEVADA,

JUSTICE COURT
Plaintiff LAS VEGAS NEVADA

-vs-

ANTOINETTE MARTINEZ, aka,
Antoinette Evette Martinez #3054969,

Defendant.

CASE NO: 12F18766X

DEPT NO: 4

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481; 200.485; 33.018), in the manner following, to-wit: That the said Defendant, on or about the 19th day of November, 2012, at and within the County of Clark, State of Nevada, did then and there wilfully, unlawfully, and feloniously use force or violence upon the person of her spouse, former spouse, or any other person to whom she is related by blood or marriage, a person with whom she is or was actually residing, a person with whom she has had or is having a dating relationship, a person with whom she has a child in common, the minor child of any of those persons or her minor child, to-wit: SHAWN MCCARTHY, with use of a deadly weapon, to-wit: a knife, by cutting and/or stabbing the said SHAWN MCCARTHY with said knife.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

12F18766X
CRM
Criminal Complaint
2019782



12F18766X/mlh
LVMPD EV# 1211190739
(TK1)

11/20/2012

1 NOTICE OF WITNESSES

2 [NRS 174.234]

3
4 TO: Defendant or attorney of record:

5 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
6 NEVADA intends to call the following witnesses:

7
8 NAME

ADDRESS

9 CUSTODIAN OF RECORDS

Communication Bureau
Law Enforcement Agency – Clark County,
Nevada

10
11
12 These witnesses are in addition to those witnesses noted in the discovery or other
13 documents provided.

14 DATED November 20, 2012.

EXHIBIT G

RECORDER'S TRANSCRIPT OF HEARING RE

JURY TRIAL

[PARTIAL TRANSCRIPT—COURT'S CANVASS TO THE DEFENDANT]

JULY 18, 2018

PAGES 5-6

EXHIBIT G

1 THE DEFENDANT: What are my remedies to file post-conviction habeas
2 corpus?

3 MR. GILL: If I may?

4 THE COURT: Sure.

5 MR. GILL: We discussed those, Judge. The guilty plea agreement is fairly
6 clear. I think it's number 6 under Waiver of Rights section starting on page 4. It
7 might be on the bottom of page 4. The last line we discussed this when we were
8 back in the holding tank regarding – however – and I don't know word for word,
9 Judge. But however, I – he still does maintain certain post-conviction remedies
10 including to file a writ for petition of habeas corpus.

11 THE COURT: Well, it says right here – okay. "By entering your plea of guilty
12 you understand that you are waiving and forever giving up the following rights and
13 privileges." And what it says on number 6 is: "The right to appeal the conviction
14 with the assistance of an attorney either appointed or retained unless specifically
15 reserved in writing and agreed upon as provided in NRS 174.035 subsection 3."
16 And you – it says: "I understand this means I am unconditionally waiving my right to
17 a direct appeal of this conviction including any challenge based upon reasonable
18 constitutional, jurisdictional or other grounds that challenge the legality of the
19 proceedings as stated in NRS 177.015 subsection 4. However, I remain free to
20 challenge my conviction through other post-conviction remedies including a habeas
21 corpus petition pursuant to NRS Chapter 34." Do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. Is there – do you have any other questions regarding
24 your rights with the negotiations?

25 THE DEFENDANT: No, ma'am.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you also understand that the law does require you to pay
3 certain administrative assessment fees?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you also understand that sentencing is strictly up to the
6 Court, that no one can promise you probation, leniency or other special treatment?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you also understand that no one can promise you a
9 particular sentence even though this guilty plea agreement says stipulations and
10 agreements and deals and so forth, that this is a deal between you and the State
11 and that I as a judge do not necessarily have to follow it?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you also understand that you're giving up certain
14 constitutional rights which are listed in the guilty plea agreement?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: By the way, are you a United States citizen?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Okay. I take it then, sir, during that 35 minutes to 40 minutes
19 and before because I know you've had various conversations with your lawyer, that
20 you did – I understand that you did discuss your case and your rights?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And you discussed that with your lawyer?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Do you have any questions regarding your rights or
25 the negotiations?

EXHIBIT

H

EMAIL REGARDING STATEMENTS
OF DR. HAN FAVORABLE
TO THE DEFENSE

EXHIBIT

H

OFFICE OF THE SPECIAL PUBLIC DEFENDER



*THIS IS The SAME Doctor That
Treated her at the Hospital*

Memo

To: Melinda Simpkins, Daniel Page
CC: C. RODGERS KIDNAPPING CASE INV. File
From: J. C. Galiano
Date: 10/11/17
Re: 10/11/17 Telephonic Interview of Dr. Nicholas Kwangsoo Han
Home: 9721 Royal Lamb Dr Las Vegas NV 89145 (702) 501-9715
Bus: 500 N. Rainbow Blvd Suite #203 Las Vegas NV 89107 (702) 259-1228
SSN#: 413-06-3385 || DOB: 11/28/1966

On Wednesday, October 11, 2017, I had an opportunity to speak with Dr. Han over the telephone following his review of Antoinette Martinez' medical records from Desert Springs Hospital. Dr. Han did not recall this particular instance or patient (A. Martinez) and informed that he was basing his opinion on the records and photographs we provided him with.

With respect to the potential source (tool / weapon) for the given injury - "laceration to left earlobe", Dr. Han stated, "I would have to guess it was an earring - not a knife injury." He noted the injury consisted of 3 "separate lacerations" - 1 in the front / anterior of ear lobe, 1 behind / posterior of ear lobe and 1 at the crease of the ear also behind / posterior of ear. Dr. Han explained that the lacerations "...did not align..." between the posterior and anterior laceration(s) on the ear. With a knife injury, Dr. Han noted, you would expect to observe a straight laceration. In this instance, the length of the laceration(s) (referring to injury in total) did not correspond to an equal distance or length, which is what one would more than likely find with a knife.

Dr. Han commented it is not impossible for a knife to cause the given wound being discussed; however, he would find it to be unlikely. He could offer no opinion on whether the injury was a "tear" or "cut" and felt comfortable stating that "laceration" is the term that is regularly used.

With respect to whether or not they would have obtained photographs, Dr. Han explained that they do not regularly do so, with the exception being for educational purposes and only if the patient provides their consent. He could does not think they obtained photographs of Martinez.

Blood draws or toxicology are not performed on patients as normal protocol during these types of instances.

Dr. Han informed that certain parts of the body can bleed more than others depending on a number of variables (i.e., injury, temperature, health, etc.) Generally, any area of the body, that contains a greater number of blood vessels, typically bleeds more than those containing fewer vessels.

Dr. Han agreed to speak with us again with any follow-up questions or to review additional information / photographs, if obtained.

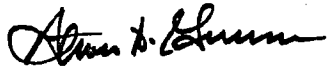
EXHIBIT

I

CRIMINAL INFORMATION

FOR C-16-316167-1

3 PAGES


CLERK OF THE COURT

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHRISTOPHER S. HAMNER
6 Deputy District Attorney
7 Nevada Bar #11390
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 7/5/16
13 10:00 AM
14 PD

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 CRAIG RODGERS, aka,
19 Craig Allen Rodgers, #1680324

20 Defendant.

CASE NO: C-16-316167-1

DEPT NO: XXIII

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

23 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
24 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That CRAIG RODGERS, aka, Craig Allen Rodgers, the Defendant(s) above named,
26 having committed the crimes of **SEX TRAFFICKING (Category B Felony - NRS**
27 **201.300.2a3 - NOC 57999); LIVING FROM THE EARNINGS OF A PROSTITUTE**
28 **(Category D Felony - NRS 201.320 - NOC 51006); BATTERY WITH USE OF A**
DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -
NRS 200.481; 200.485; 33.018 - NOC 57935) and SEXUAL ASSAULT (Category A
Felony - NRS 200.364, 200.366 - NOC 50095), on or between June 1, 2013 and June 1, 2015,
within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

1 COUNT 1 - SEX TRAFFICKING

2 did on or between June 1, 2013 and June 1, 2016, willfully, unlawfully, and feloniously
3 induce, cause, compel or procure S.T. to engage in prostitution by threats, violence, force,
4 intimidation, fraud, duress, or coercion.

5 COUNT 2 - LIVING FROM THE EARNINGS OF A PROSTITUTE

6 did on or between June 1, 2013 and June 1, 2016, then and there willfully, unlawfully,
7 feloniously, and knowingly accept, receive, levy, or appropriate money, without consideration,
8 from S.T., the proceeds of prostitution activity.

9 COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
10 DOMESTIC VIOLENCE

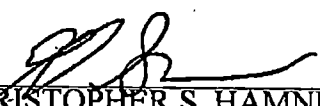
11 did on or between April 2015 and May 2015, willfully and unlawfully use force or
12 violence against or upon the person of S.T., his girlfriend, with use of a deadly weapon, to-
13 wit: a rock, by hitting the said S.T., in the head with said rock.

14 COUNT 4 - SEXUAL ASSAULT

15 did on or about August 2014, then and there willfully, unlawfully, and feloniously
16 sexually assault and subject S.T., a female person, to sexual penetration, to-wit: sexual
17 intercourse, by placing his penis into the genital opening of the said S.T., against her will, or
18 under conditions in which Defendant knew, or should have known, that S.T., was mentally or
19 physically incapable of resisting or understanding the nature of Defendant's conduct.

20
21 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

22
23 BY


24 CHRISTOPHER S. HAMNER
Deputy District Attorney
25 Nevada Bar #11390

26 ///

27 ///

28 ///

Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
LEON, FNU	FBI
MASON, DAVID	LVMPD #8055
T.S.	C/O METRO VICE

16F07732X /jm/SVU
LVMPD EV#1604211638
(TK4)

EXHIBIT

J

CRIMINAL INFORMATION

FOR CASE NO. C-16-314359-1

4 PAGES


CLERK OF THE COURT

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEVEN J. ROSE
6 Deputy District Attorney
7 Nevada Bar #13575
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 4/25/16
13 10:00 AM
14 PD - WOOD

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 CRAIG RODGERS, aka,
19 Craig Allen Rodgers, #1680324

20 Defendant.

CASE NO: C-16-314359-1

DEPT NO: VI

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

23 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
24 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That CRAIG RODGERS, aka, Craig Allen Rodgers, the Defendant(s) above named,
26 having committed the crimes of BATTERY WITH USE OF A DEADLY WEAPON
27 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 -
28 NOC 50226); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category
B Felony - NRS 200.460 - NOC 50185); FIRST DEGREE KIDNAPPING WITH USE OF A
DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A
Felony - NRS 200.310, 200.320, 193.165 - NOC 50056); MAYHEM WITH USE OF A
DEADLY WEAPON (Category B Felony - NRS 200.280, 193.165 - NOC 50045) and
ROBBERY (Category B Felony - NRS 200.380 - NOC 50137), on or about the 6th day of
March, 2015, within the County of Clark, State of Nevada, contrary to the form, force and

1 effect of statutes in such cases made and provided, and against the peace and dignity of the
2 State of Nevada,

3 COUNT 1 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
4 SUBSTANTIAL BODILY HARM

5 2-15
6 did willfully, unlawfully, and feloniously use force or violence upon the person of
7 another, to-wit: ANTOINETTE MARTINEZ, with use of a deadly weapon, to-wit: a knife
8 and/or similar sharp object, by striking the said ANTOINETTE MARTINEZ with said knife
9 and/or similar sharp object, resulting in substantial bodily harm to ANTOINETTE
10 MARTINEZ.

11 COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

12 did then and there willfully and unlawfully confine or detain, without sufficient legal
13 authority, the personal liberty of another, to-wit: ANTOINETTE MARTINEZ, with use of a
14 deadly weapon, to-wit: a knife and/or similar sharp object, by preventing the said
15 ANTOINETTE MARTINEZ from leaving the car as she attempted to flee.

16 COUNT 3 - \FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
17 RESULTING IN SUBSTANTIAL BODILY HARM

18 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
19 abduct, conceal, kidnap, or carry away ANTOINETTE MARTINEZ, a human being, with the
20 intent to hold or detain the said ANTOINETTE MARTINEZ against her will, and without her
21 consent, for the purpose of committing killing the person or inflicting substantial bodily harm
22 upon the person, with use of a deadly weapon, to-wit: a knife and/or similar sharp object,
23 resulting in substantial bodily harm to ANTOINETTE MARTINEZ.

24 COUNT 4 - MAYHEM WITH USE OF A DEADLY WEAPON

25 did willfully, maliciously, and feloniously deprive a person, to-wit: ANTOINETTE
26 MARTINEZ, of a body member and/or did disfigure or render a body member useless, to-wit:
27 ear, with use of a deadly weapon, to-wit: a knife and/or similar sharp object, by slitting the ear
28 of the said ANTOINETTE MARTINEZ.

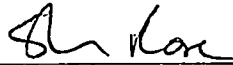
///

1 COUNT 5 - ROBBERY

2 did willfully, unlawfully, and feloniously take personal property, to-wit: U.S.
3 Currency, from the person of ANTOINETTE MARTINEZ, or in his presence, by means of
4 force or violence, or fear of injury to, and without the consent and against the will of
5 ANTOINETTE MARTINEZ.

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

9 BY


10 STEVEN J. ROSE
11 Deputy District Attorney
12 Nevada Bar #13575

13 Names of witnesses known to the District Attorney's Office at the time of filing this
14 Information are as follows:

15 NAME

ADDRESS

16 CUSTODIAN OF RECORDS
17 OR DESIGNEE

Clark County Detention Center,
330 S. Casino Center Blvd., Las Vegas, NV

18 CUSTODIAN OF RECORDS
19 OR DESIGNEE

LVMPD Communications,
400 E. Stewart, Las Vegas, NV

20 CUSTODIAN OF RECORDS
21 OR DESIGNEE

LVMPD Dispatch,
400 E. Stewart, Las Vegas, NV

22 CUSTODIAN OF RECORDS
23 OR DESIGNEE

LVMPD Records,
400 E. Stewart, Las Vegas, NV

24 CUSTODIAN OF RECORDS
25 OR DESIGNEE

DISCOUNT RENTAL CAR,
5030 Paradise Rd., Las Vegas, NV

26 BEVERIDGE, J.

LVMPD #6707

27 CARCDEN, Adriana

1452 Dorothy Ave., #4, Las Vegas, NV

28 CARSON, Tobias

3318 N. Decatur Blvd., #2028, LVNV

ESPINDA-MANNING, Richard

1550 Lori Lyn Ave., Las Vegas, NV

1 HATCH, S.
2 MARTINEZ, Antoinette
3 WATTS, Joseph
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

LVMPD #8099
C/O District Attorney's Office
DA Investigator and/or Designee

27 15F03939X /cmj/L3
28 LVMPD EV#1503061612
(TK14)

EXHIBIT

K

SECOND AMENDED INFORMATION
FILED IN OPEN COURT, ALONG
WITH THE GUILTY PLEA AGREEMENT
AUGUST 6, 2019
2 PAGES

EXHIBIT

L

GUILTY PLEA AGREEMENT

AUGUST 6, 2019

8 PAGES

EXHIBIT

L

1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEVEN J. ROSE
6 Deputy District Attorney
7 Nevada Bar #013575
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
AUG 06 2019

BY, _____
APRIL WATKINS, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CRAIG RODGERS,
13 #1680324

14 Defendant.

CASE NO: C-16-314359-1

DEPT NO: XXII

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: SECOND DEGREE KIDNAPPING (Category B
17 Felony - NRS 200.310, 200.330 - NOC 50075); ROBBERY (Category B Felony - NRS
18 200.380 - NOC 50137); MAYHEM (Category B Felony - NRS 200.280 - NOC 50044); and
19 PANDERING (Category C Felony - NRS 201.300.1 - NOC 51000), as more fully alleged in
20 the charging document attached hereto as Exhibit "1".

21 My decision to plead guilty is based upon the plea agreement in this case which is as
22 follows:

23 The parties stipulate to jointly recommend an aggregate sentence of six (6) to twenty
24 (20) years in the Nevada Department of Corrections. The parties agree the plea is conditioned
25 upon the Court accepting the negotiations. The State agrees to dismiss case C316167 after
26 rendition of sentence.

27 //

28 //

1 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
2 and/or impounded in connection with the instant case and/or any other case negotiated in
3 whole or in part in conjunction with this plea agreement.

4 I understand and agree that, if I fail to interview with the Department of Parole and
5 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
6 by affidavit review, confirms probable cause against me for new criminal charges including
7 reckless driving or DUI, but excluding minor traffic violations, the State will have the
8 unqualified right to argue for any legal sentence and term of confinement allowable for the
9 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
10 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
11 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
12 twenty-five (25) year term with the possibility of parole after ten (10) years.

13 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
14 plea agreement.

15 CONSEQUENCES OF THE PLEA

16 I understand that by pleading guilty I admit the facts which support all the elements of
17 the offense(s) to which I now plead as set forth in Exhibit "1".

18 I understand that as a consequence of my plea of guilty, as to Count 1, I must be
19 sentenced to a term of not less than two (2) years, and not more than fifteen (15) years in the
20 Nevada Department of Corrections. The minimum term may not exceed forty-percent (40%)
21 of the maximum term of imprisonment. I understand that I may be fined up to \$15,000. As to
22 Count 2, I understand that as a consequence of my plea of guilty, I must be sentenced to a term
23 of not less than two (2) years, and not more than fifteen (15) years in the Nevada Department
24 of Corrections. The minimum term may not exceed forty-percent (40%) of the maximum term.
25 As to Count three I understand that as a consequence of my plea of guilty, I must be sentenced
26 to a term of not less than two (2) years, and not more than ten (10) years in the Nevada
27 Department of Corrections. I understand that I may be fined up to \$10,000. As to Count 4, I
28 understand that as a result of my plea of guilty, I must be sentenced to a term of not less than

1 one (1) year and not more than five (5) years in the Nevada Department of Corrections. I
2 understand that I may be fined up to \$10,000. I understand that the law requires me to pay an
3 Administrative Assessment Fee.

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

8 I understand that as all counts, I am eligible for probation.

9 I understand that I must submit to blood and/or saliva tests under the Direction of the
10 Division of Parole and Probation to determine genetic markers and/or secretor status.

11 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
12 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
13 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
14 and may receive a higher sentencing range.

15 I understand that if more than one sentence of imprisonment is imposed and I am
16 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
17 the sentences served concurrently or consecutively.

18 I understand that information regarding charges not filed, dismissed charges, or charges
19 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

20 I have not been promised or guaranteed any particular sentence by anyone. I know that
21 my sentence is to be determined by the Court within the limits prescribed by statute.

22 I understand that if my attorney or the State of Nevada or both recommend any specific
23 punishment to the Court, the Court is not obligated to accept the recommendation.

24 I understand that if the offense(s) to which I am pleading guilty was committed while I
25 was incarcerated on another charge or while I was on probation or parole that I am not eligible
26 for credit for time served toward the instant offense(s).

27 I understand that if I am not a United States citizen, any criminal conviction will likely
28 result in serious negative immigration consequences including but not limited to:

1. The removal from the United States through deportation;
2. An inability to reenter the United States;
3. The inability to gain United States citizenship or legal residency;
4. An inability to renew and/or retain any legal residency status; and/or
5. An indeterminate term of confinement, with the United States Federal Government based on my conviction and immigration status.

Regardless of what I have been told by any attorney, no one can promise me that this conviction will not result in negative immigration consequences and/or impact my ability to become a United States citizen and/or a legal resident.

I understand that the Division of Parole and Probation will prepare a report for the sentencing judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. This report may contain hearsay information regarding my background and criminal history. My attorney and I will each have the opportunity to comment on the information contained in the report at the time of sentencing. Unless the District Attorney has specifically agreed otherwise, the District Attorney may also comment on this report.

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

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

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

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

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

///

///

///

///

///


///

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

3 DATED this 6th day of August, 2019.

4
5 
6 CRAIG RODGERS
Defendant

7 AGREED TO BY:

8 
9 STEVEN J. ROSE
10 Deputy District Attorney
11 Nevada Bar #013575
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
- 13 b. An inability to reenter the United States;
- 14 c. The inability to gain United States citizenship or legal residency;
- 15 d. An inability to renew and/or retain any legal residency status; and/or
- 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.
- 18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.
- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
- 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

25 Dated: This 6th day of August, 2019.

26 
ATTORNEY FOR DEFENDANT

28 sr/L-3

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEVEN J. ROSE
6 Deputy District Attorney
7 Nevada Bar #13575
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
AUG 06 2019

BY, APRIL WATKINS, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,
11 -vs-
12 CRAIG RODGERS, aka,
13 Craig Allen Rodgers, #1680324
14 Defendant.

CASE NO: C-16-314359-1

DEPT NO: XXII

SECOND AMENDED
INFORMATION

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That CRAIG RODGERS, aka, Craig Allen Rodgers, the Defendant(s) above named,
20 having committed the crimes of SECOND DEGREE KIDNAPPING (Category B Felony -
21 NRS 200.310, 200.330 - NOC 50075); ROBBERY (Category B Felony - NRS 200.380 - NOC
22 50137); MAYHEM (Category B Felony - NRS 200.280 - NOC 50044); and PANDERING
23 (Category C Felony - NRS 201.300.1 - NOC 51000), on or between the 1st day of June, 2013,
24 and the 6th day of March, 2015, within the County of Clark, State of Nevada, contrary to the
25 form, force and effect of statutes in such cases made and provided, and against the peace and
26 dignity of the State of Nevada,

27 ///

28 ///

1 COUNT 1 - SECOND DEGREE KIDNAPPING

2 did on or about March 6, 2015, willfully, unlawfully, and feloniously, seize, inveigle,
3 take, carry away, or kidnap ANTOINETTE MARTINEZ, a human being, against her will, and
4 without her consent, with the intent to keep ANTOINETTE MARTINEZ detained against her
5 will.

6 COUNT 2 – ROBBERY

7 did on or about March 6, 2015, willfully, unlawfully, and feloniously take personal
8 property, to wit: U.S. Currency and/or personal property, from the person of ANTOINETTE
9 MARTINEZ, or in her presence, by means of force or violence, or fear of injury to, and without
10 the consent and against the will of ANTOINETTE MARTINEZ.

11 COUNT 3 - MAYHEM

12 did on or about March 6, 2015, willfully, maliciously, and feloniously deprive a person,
13 to-wit: ANTOINETTE MARTINEZ, of a body member and/or did disfigure or render a body
14 member useless, to-wit: ear, by slitting the ear of the said ANTOINETTE MARTINEZ.

15 COUNT 4 – PANDERING

16 did on or between June 1, 2013, and June 1, 2016, willfully, unlawfully, and feloniously
17 induce SAVANNAH TAYLOR to unlawfully become a prostitute and/or to continue to
18 engage in prostitution.

19
20
21
22 STEVEN B. WOLFSON
23 Clark County District Attorney
24 Nevada Bar #001565

25 BY /s/ Steven J. Rose
26 STEVEN J. ROSE
27 Deputy District Attorney
28 Nevada Bar #13575

CRATIG RODGERS

1021816

P.O. Box 208

Indian Springs, NV 89070

STEVEN B. GIERSON
CLIENT OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS, NV 89155-1140



PRIORITY
MAIL

UNITED STATES POSTAL SERVICE

Visit us at usps.com



Label 101TR January 2009

CONFIDENTIAL

SOUTHERN REGION

COMMUNICATIONS CENTER

AUG 10 2008

CONFIDENTIAL

SOUTHERN REGION

COMMUNICATIONS CENTER

AUG 10 2008

CONFIDENTIAL

SOUTHERN DESERT
CORRECTION CENTER

AUG 19 2020

OUTGOING MAIL

PP
DA

Electronically Filed
08/31/2020

Heather L. Lavin
CLERK OF THE COURT

1 CRAIG RODGERS #1221814
2 SOCC - P.O. BOX 208
3 INOTAN SPAINES, NV89010-0208
4 PETITIONER, IN PRO SE

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

A-20-820408-W

CASE NUMBER: C-16-314359-1

10
11 CRAIG RODGERS

12 Petitioner,

13 vs.

14 WELLEAM HUTCHINGS

15 Warden; State of Nevada,

16 Respondents.
17

**EX PARTE MOTION FOR
APPOINTMENT OF COUNSEL AND
REQUEST FOR EVIDENTIARY
HEARING**

18 COMES NOW, CRAIG RODGERS the Petitioner, in proper person, and moves this Court
19 for its order allowing the appointment of counsel for Petitioner and for an evidentiary hearing. This
20 motion is made and based in the interest of justice.

21 Pursuant to NRS 34.750(1):

22 A petition may allege that the petitioner is unable to pay the costs of the
23 proceedings or to employ counsel. If the court is satisfied that the
24 allegation of indigency is true and the petitioner is not dismissed
25 summarily, the court may appoint counsel to represent the petitioner. In
26 making its determination, the court may consider, among other things, the
27 severity of the consequences facing the petitioner and whether:

- 28
- (a) The issues presented are difficult;
 - (b) The petitioner is unable to comprehend the proceedings; or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(c) Counsel is necessary to proceed with discovery.

Petitioner is presently incarcerated at SOUTHERN DESERT CORRECTIONAL CENTER, is indigent and unable to retain private counsel to represent him.

Petitioner is unlearned and unfamiliar with the complexities of Nevada state law, particularly state post-conviction proceedings. Further, Petitioner alleges that the issues in this case are complex and require an evidentiary hearing. Petitioner is unable to factually develop and adequately present the claims without the assistance of counsel. Counsel is unable to adequately present the claims without an evidentiary hearing.

Dated this 17th day of August, 2020.

Craig Rodgers #1221814

In Proper Person

Craig Rodgers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is a person of such age and discretion as to be competent to serve papers.

That on August 17, 2020, he served a copy of the foregoing Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing by personally mailing said copy to:

District Attorney's Office

Address:

STEVEN B. WOLFSON

200 LEWIS AVE.

LAS VEGAS, NV 89155-2212

STEVEN B. GRIERSON, CLERK

200 LEWIS AVE, 3rd Floor

LAS VEGAS, NV 89155-1160

Warden

Address:

WILLIAM HUTCHINGS, WARDEN

20825 OLD CREEK RD.

INDIAN SPRINGS, NV 89070-0661

Craig Rodgers
CRAIG RODGERS #1221816
Petitioner

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding EX PARTE

Motion For Appointment of Counsel and Evidentiary
(Title of Document)

filed in District Court Case number C-16-314359-1

☒ 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.

Craig Rodgers
Signature

8-17-20
Date

CRAIG RODGERS
Print Name

N/A
Title

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
77 - 79
WILL FOLLOW VIA
U.S. MAIL**

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
80 - 81
WILL FOLLOW VIA
U.S. MAIL**

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
82 - 84
WILL FOLLOW VIA
U.S. MAIL**

Amanda L. Smith
CLERK OF THE COURT

OPWH
~~PPOW~~

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Craig Rodgers,

Petitioner,

vs.

William Hutchings Warden; Steven B Wolfson
District Attorney; State of Nevada,

Respondent,

Case No: A-20-820408-W
Department 22

**ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on August 31, 2020. The Court has reviewed the Petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's

Calendar on the 7th day of January, 202, at the hour of
1

9:00 o'clock for further proceedings.
a.m.

Dated this 9th day of September, 2020

Susan Johnson

District Court Judge

**C08 CA9 ABC4 D678
Susan Johnson
District Court Judge**

1 **CSERV**

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

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case.

14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
16 known addresses on 9/10/2020

17 **Craig Rodgers**

#1221816

P.O. Box 208

Indian Springs, NV, 89070

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
87 - 90
WILL FOLLOW VIA
U.S. MAIL**

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
91 - 92
WILL FOLLOW VIA
U.S. MAIL**

Case No. A-20-820408-W

Dept. No. 22

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

Craig Rodgers
Petitioner,

-vs-
William Hutchinson, warden
State of Nevada
Respondents.

ORDER APPOINTING COUNSEL

Petitioner, CRAIG RODGERS, has filed a proper person REQUEST FOR APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-Conviction), in the above-entitled action.

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is GRANTED.

IT IS FURTHER ORDERED that _____, Esq., is appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this _____ day of _____, 20__.

Submitted by:

DISTRICT COURT JUDGE

Craig Rodgers
Craig Rodgers #1221816
Petitioner, In Proper Person

RECEIVED

OCT 13 2020

CLERK OF THE COURT

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding EX PARTE

motion for appointment of counsel and request for Evidentiary Hearing
(Title of Document)

filed in District Court Case No. A-820-820408-L

☒ 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.

C. M. R. R.
(Signature)

10-5-20
(Date)

FILED

OCT 21 2020

John J. H. H.
CLERK OF COURT

Case No. A-20-820408-W

Dept. No. 22

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

CRAIG RODGERS
Petitioner,

EX PARTE
MOTION FOR THE APPOINTMENT
OF COUNSEL

-VS-
William Hutchings, Warden
Steven B. Wolfson
State of Nevada
Respondents.

REQUEST FOR EVIDENTIARY HEARING

COMES NOW, the Petitioner, CRAIG RODGERS, proceeding pro se, within the above entitled cause of action and respectfully requests this Court to consider the appointment of counsel for Petitioner for the prosecution of this action.

This motion is made and based upon the matters set forth here, N.R.S. 34.750(1)(2), affidavit of Petitioner, the attached Memorandum of Points and Authorities, as well as all other pleadings and documents on file within this case.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

This action commenced by Petitioner CRAIG RODGERS, in state custody, pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post-Conviction).

II. STATEMENT OF THE FACTS

To support the Petitioner's need for the appointment of counsel in this action, he states the following:

1. The merits of claims for relief in this action are of Constitutional dimension, and Petitioner is likely to succeed in this case.

RECEIVED

OCT 13 2020

CLERK OF THE COURT

2. Petitioner is incarcerated at the S, D, C, C Petitioner is unable to undertake the ability, as an attorney would or could, to investigate crucial facts involved within the Petition for Writ of Habeas Corpus.
3. The issues presented in the Petition involves a complexity that Petitioner is unable to argue effectively.
4. Petitioner does not have the current legal knowledge and abilities, as an attorney would have, to properly present the case to this Court coupled with the fact that appointed counsel would be of service to the Court, Petitioner, and the Respondents as well, by sharpening the issues in this case, shaping the examination of potential witnesses and ultimately shortening the time of the prosecution of this case.
5. Petitioner has made an effort to obtain counsel, but does not have the funds necessary or available to pay for the costs of counsel, see Declaration of Petitioner.
6. Petitioner would need to have an attorney appointed to assist in the determination of whether he should agree to sign consent for a psychological examination.
7. The prison severely limits the hours that Petitioner may have access to the Law Library, and as well, the facility has very limited legal research materials and sources.
8. While the Petitioner does have the assistance of a prison law clerk, he is not an attorney and not allowed to plead before the Courts and like Petitioner, the legal assistants have limited knowledge and expertise.
9. The Petitioner and his assisting law clerks, by reason of their imprisonment, have a severely limited ability to investigate, or take depositions, expand the record or otherwise litigate this action.
10. The ends of justice will be served in this case by the appointment of professional and competent counsel to represent Petitioner.

II. ARGUMENT

Motions for the appointment of counsel are made pursuant to N.R.S. 34.750, and are addressed to the sound discretion of the Court. Under Chapter 34.750 the Court may request an attorney to represent any

such person unable to employ counsel. On a Motion for Appointment of Counsel pursuant to N.R.S. 34.750, the District Court should consider whether appointment of counsel would be of service to the indigent petitioner, the Court, and respondents as well, by sharpening the issues in the case, shaping examination of witnesses, and ultimately shortening trial and assisting in the just determination.

In order for the appointment of counsel to be granted, the Court must consider several factors to be met in order for the appointment of counsel to be granted; (1) The merits of the claim for relief; (2) The ability to investigate crucial factors; (3) whether evidence consists of conflicting testimony effectively treated only by counsel; (4) The ability to present the case; and (5) The complexity of the legal issues raised in the petition.

III. CONCLUSION

Based upon the facts and law presented herein, Petitioner would respectfully request this Court to weigh the factors involved within this case, and appoint counsel for Petitioner to assist this Court in the just determination of this action

Dated this 5th day of October, 2020.

CRAIG RODGERS
Craig Rodgers #1221816
Petitioner.

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my own knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct.

Dated this 5th day of October, 2020.

Craig Rodgers #1221816
Petitioner, pro per.

CERTIFICATE OF SERVICE BY MAIL

I, CRAIG RODGENS, hereby certify pursuant to N.R.C.P.
5(b), that on this 5th day of OCTOBER, of the year 2020, I mailed a true and
correct copy of the foregoing Motion for Leave to Proceed in Forma Pauperis; Affidavit in Support of
Motion for Leave to Proceed in Forma Pauperis; Motion for the Appointment of Counsel; and Request for
Evidentiary Hearing, addressed to:

<u>JOHN STEVEN GRIENSON</u>	<u>STEVEN WOLFSON</u>	_____
Name	Name	Name
<u>200 LEWIS AVE, 3rd Floor</u>	<u>200 LEWIS AVE</u>	_____
<u>LAS VEGAS, NV 89155</u>	<u>LAS VEGAS NEVADA</u>	_____
_____	<u>89155-2212</u>	_____
Address	Address	Address

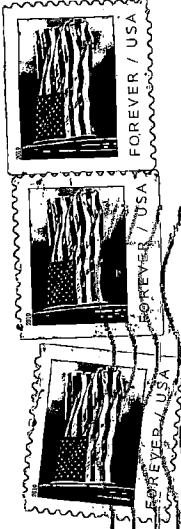
Craig Rodgens
Craig Rodgens #1221816
Petitioner

Craig Rodgers

#1221814

P.O. Box 208

Indian Springs NV, 89070



Las Vegas NV 89199

TUE 06 OCT 2020 AM

STEVEN GRIFFINSON
200 Lewis Ave, 3rd Floor
LAS VEGAS, NV 89155

COMMUNICATIONS
SECTION
JAN 11 2023
01/10/2023

1 IN THE 8th JUDICIAL DISTRICT COURT OF THE
2 STATE OF NEVADA IN AND FOR THE
3 COUNTY OF CLARK
4

5 Craig Rodgers)

6 Petitioner,)

7)
8 v.)

9)
10 William Hutchings Warden,)
11 Steven B. Wolfson,)
12 State of Nevada)

Case No. A-20-820408-W

Dept. No. 22

13 Respondent.)
14)
15

16 ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE
17 OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO
18 CONFERENCE

19 Based upon the above motion, I find that the presence of
20 _____ is necessary for the hearing that is scheduled in this
21 case on the _____ day of _____, _____, at
22 _____.

23 THEREFOR, IT IS HEREBY ORDERED that,

24 ☐ Pursuant to NRS 209.274, Warden _____
25 of _____ is hereby commanded to have
26 _____ transported to appear before me at a hearing
27 scheduled for _____ at _____ at the
28 _____ County Courthouse. Upon completion of the hearing,

RECEIVED

OCT 19 2020

CLERK OF THE COURT

1 _____ is to be transported back to the above
2 named institution.

3
4 ☐ Pursuant to NRS 209.274(2)(a), Petitioner shall be made available for telephonic
5 or video conference appearance by his or her institution. My clerk will contact
6 _____ at _____ to make
7 arrangements for the Court to initiate the telephone appearance for the hearing.
8

9 Dated this _____ day of _____,
10 _____.

11
12 _____
13 District Court Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

28
FILED

OCT 26 2020

CLERK OF COURT

1 Craig Rodgers
2 NDOC No. 1221816
3 _____

4 In proper person

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

10 Craig Rodgers)
11)
12 Petitioner,)

13 v.)

14)
15 William Hutchings, warden)
16 Steven B. Wolfson,)
17 State of Nevada)
18 Respondent.)
19 _____)

Case No. A-20-820408-W

Dept. No. 22

20 MOTION AND ORDER FOR TRANSPORTATION
21 OF INMATE FOR COURT APPEARANCE
22 OR, IN THE ALTERNATIVE,
23 FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE
24

25 Petitioner, CRAIG RODGERS, proceeding pro se, requests
26 that this Honorable Court order transportation for his personal appearance or, in the
27 alternative, that he be made available to appear by telephone or by video conference
28 at the hearing in the instant case that is scheduled for 7th day of January, 2021
29 at 9:00 AM.

RECEIVED

OCT 19 2020

CLERK OF THE COURT

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at S.D.C.C.

3 My mandatory release date is _____.

4
5 2. The Department of Corrections is required to transport offenders to and
6
7 from Court if an inmate is required or requests to appear before a Court in this state.
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is
11 required or requested to appear before a Court in this state, the
12 Department shall transport the offender to and from Court on the day
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the
15 Department shall transport the offender to Court on the date scheduled
16 for his appearance if it is possible to transport the offender in the usual
17 manner for the transportation of offenders by the Department. If it is
18 not possible for the Department to transport the offender in the usual
19 manner:

20 (a) The Department shall make the offender available on the date scheduled
21 for his appearance to provide testimony by telephone or by video conference,
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to
24 and from the Court, if the Court so orders. If the Court orders special
25 transportation, it shall order the county in which the Court is located to
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

☒ I AM NEEDED AS A WITNESS.

My petition raises substantial issues of fact concerning events in which I participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S. 205 (1952) (District Court erred when it made findings of fact concerning Hayman's knowledge and consent to his counsel's representation of a witness against Hayman without notice to Hayman or Hayman's presence at the evidentiary hearing).

☒ THE HEARING WILL BE AN EVIDENTIARY HEARING.

My petition raises material issues of fact that can be determined only in my presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention that allegations are improbable and unbelievable cannot serve to deny the petitioner an opportunity to support them by evidence). The Nevada Supreme Court has held that the presence of the petitioner for habeas corpus relief is required at any evidentiary hearing conducted on the merits of the claim asserted in the petition. *See Gebbers v. Nevada*, 118 Nev. 500 (2002).

4. The prohibition against ex parte communication requires that I be present at any hearing at which the state is present and at which issues concerning the claims raised in my petition are addressed. U.S. Const. amends. V, VI.

5. If a person incarcerated in a state prison is required or is requested to appear as a witness in any action, the Department of Corrections must be notified in writing not less than 7 business days before the date scheduled for his appearance in Court if the inmate is incarcerated in a prison located not more than 40 miles from Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or more from Las Vegas, the Department of Corrections must be notified in writing not less than 14 business days before the date scheduled for the person's appearance in Court.

6. S.D.C.C. is located approximately
40 miles from Las Vegas, Nevada.

1 7. If there is insufficient time to provide the required notice to the Department
2 of Corrections for me to be transported to the hearing, I respectfully request that this
3 Honorable Court order the Warden to make me available on the date of the
4 scheduled appearance, by telephone, or video conference, pursuant to NRS
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the
6 evidentiary hearing.

7 8. The rules of the institution prohibit me from placing telephone calls from
8 the institution, except for collect calls, unless special arrangements are made with
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my
10 telephone appearance can be made by contacting the following staff member at my
11 institution: S.D.C.C., M.S. COOK,
12 whose telephone number is 725-216-6500 EXT 66411

13
14 Dated this 13th day of OCTOBER, 2020.

15
16 CRAIG RODGERS #1221816

17
18
19 Craig Rodgers
20
21
22
23
24
25
26
27
28
29

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 13th
day of October, 2020, I mailed a true and correct copy of the foregoing, "Motion and
order for Transportation of inmate for court Appearance"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

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

William Hutchings
Warden
20825 Cold Creek Road
Indian Springs, NV 89070

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

CC:FILE

DATED: this 13th day of October, 2020.

Craig Rodgers
Craig 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 Motion And order

for Transportation of inmate for court Appearance
(Title of Document)

filed in District Court Case number A-20-820408-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.

Chris Rodger
Signature

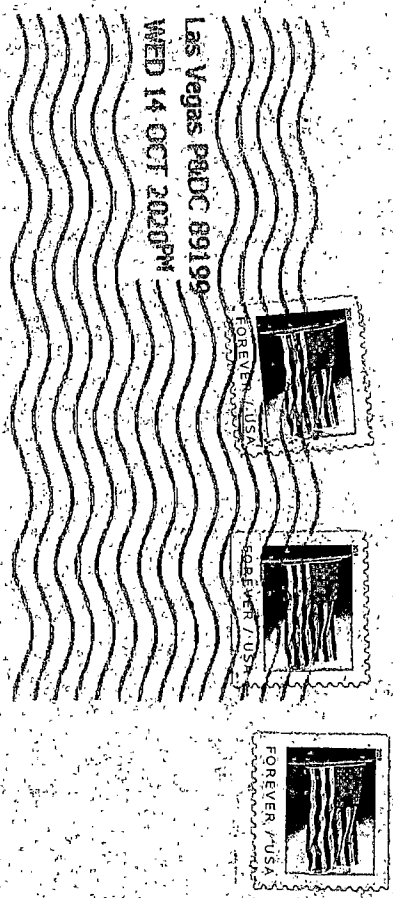
10-13-2020
Date

Chris Rodger
Print Name

Title

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

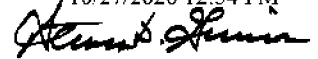
STEVEN GRIERSON
CLERK OF THE COURT
800 LEWIS AVE, 3rd Floor
LAS VEGAS, NV 89155



SOUTHERN DESERT
CORRECTIONAL CENTER

SEP 13 2020

OUTGOING MAIL



CLERK OF THE COURT

OGM

DISTRICT COURT

CLARK COUNTY, NEVADA

CRAIG RODGERS,

Petitioner,

Vs.

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

Respondents.

Case No. A-20-820408-W

Dept. No. XXII

**ORDER GRANTING PETITIONER'S MOTION FOR APPEARANCE BY TELEPHONE
OR VIDEO CONFERENCE**

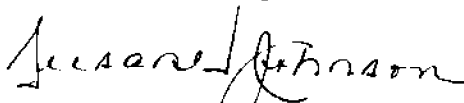
This matter concerning Petitioner CRAIG RODGER'S Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference filed October 26, 2020 came, *in chambers*, to the attention of Department XXII of the Eighth Judicial District Court, in and for Clark County Nevada, with JUDGE SUSAN JOHNSON presiding. Having reviewed the papers and pleadings on file herein, and found good cause therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED CRAIG RODGER'S Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference filed October 26, 2020 is granted in part, denied in part;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED Petitioner RODGERS may appear on the 7th day of January 2021 at the hour of 9:00 a.m. before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada for the hearing concerning his Petition for Writ of Habeas Corpus via either telephone or video conference; video conference can take place *only if* the Nevada Department of Corrections (NDOC) has the capability of arranging an inmate's

1 court appearance by video conferencing. It is MR. RODGERS' responsibility to arrange such
2 appearance by telephone or video conference with the Nevada Department of Corrections.

3 Dated this 27th day of October, 2020

4 

5

SUSAN H. JOHNSON, DISTRICT COURT JUDGE

6
7 A6B 2B2 62D7 4E1D
8 Susan Johnson
9 District Court Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case.

14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
16 known addresses on 10/28/2020

17 Craig Rodgers

#1221816

P.O. Box 208

18 Indian Springs, NV, 89070
19
20
21
22
23
24
25
26
27
28

ODM

DISTRICT COURT
CLARK COUNTY, NEVADA

CRAIG RODGERS,

Petitioner,

Vs.

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

Respondents.

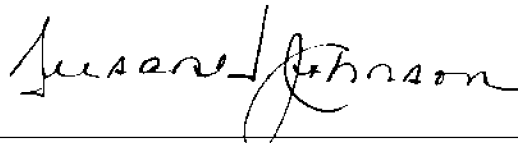
Case No. A-20-820408-W
Dept. No. XXII

**ORDER DENYING PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL AND
REQUEST FOR EVIDENTIARY HEARING**

This matter concerning Petitioner CRAIG RODGER'S *Ex Parte* Motion for the Appointment of Counsel and Request for Evidentiary Hearing filed October 21, 2020 came, *in chambers*, to the attention of Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN JOHNSON presiding. Having reviewed the papers and pleadings on file, and found good cause therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED Petitioner CRAIG RODGER'S *Ex Parte* Motion for the Appointment of Counsel and Request for Evidentiary Hearing filed October 21, 2020 is denied.

Dated this 27th day of October, 2020



SUSAN H. JOHNSON, DISTRICT COURT JUDGE

909 701 E400 D996
Susan Johnson
District Court Judge

1 **CSERV**

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

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case.

14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
16 known addresses on 10/28/2020

17 **Craig Rodgers**

#1221816

P.O. Box 208

Indian Springs, NV, 89070

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

Steven D. Grierson

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

William Hutchins, Warden,
STATE OF NEVADA
Plaintiff,

vs.

CRAIG RODGERS
Defendant.

Case No. A-20-820408-W

Dept. No. 29

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

Petitioner's motion for appointment of counsel AND request for evidentiary hearing

ruled on the 27th day of OCTOBER, 2020.

dated this 5th day of NOVEMBER, 2020.

Respectfully Submitted.

Craig Rodgers

RECEIVED
NOV 09 2020
CLERK OF THE COURT

Craig 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

William Hutchins, warden
STATE OF Nevada
Plaintiff,

vs.

CRAIG Rodgers
Defendant.

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 5th ~~day~~ day of November, 2020.

RESPECTFULLY SUBMITTED BY:

CRAIG Rodgers
Craig Rodgers #122/816
Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, CRAIG RODGERS, hereby certify, pursuant to NRCP 5(b), that on this 5th
day of November, 2020, 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 D. GIPSON
CLERK OF THE COURT
200 LEWIS AVE, 3rd Floor
LAS VEGAS, NV 89155

CC:FILE

DATED: this 5th day of November, 2020.

Craig Rodgers
CRAIG 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-20-820408-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.

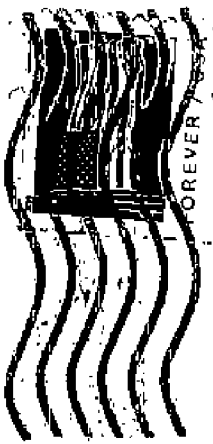
Craig Rodgers
Signature

11-5-20
Date

CRAIG RODGERS
Print Name

Title

CRAIG RODGERS
#1221814
P.O. Box 208
Indian Springs, NV, 89070



LAS VEGAS NV 890
6 NOV 2020 PM 5 L

STEVEN D. GRIERSON
200 LEVIE AVE, 3RD Floor
LAS VEGAS NV 89155-1160

0033010138

Postage & Fees Paid
Steven D. Grierson
Permit No. 1160
Las Vegas, NV 89155



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 CRAIG RODGERS,

11 Plaintiff(s),

12 vs.

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

15 Defendant(s),
16
17

Case No: A-20-820408-W

Dept No: XXII

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; State of Nevada; Steven B. Wolfson, District
27 Attorney

28 Counsel:

Aaron D. Ford, Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101-1068

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*
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: Misc. Order

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 12 day of November 2020.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

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

cc: Craig Rodgers

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
12/8/2020 1:03 PM
Steven D. Grierson
CLERK OF THE COURT



Craig Rodgers, Plaintiff(s)

vs.

William Hutchings Warden, Defendant(s)

Case No.: A-20-820408-W

Department 22

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Appointment of Counsel in the above-entitled matter is set for hearing as follows:

Date: January 12, 2021

Time: 8:30 AM

Location: RJC Courtroom 15D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

File Stamped
Requested

Electronically Filed
12/08/2020

Heather L. Shinn
CLERK OF THE COURT

1 Craig Rodgers 7221816
2 Defendant / In Propria Personam
3 SOC, Post Office Box-208
4 Indian Springs, Nevada 89070-0208.

5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 Craig Rodgers,)
8 Plaintiff,)
9 Vs.)
10 William Hatchins Warden,)
11 Steven B. Utterman DP,)
12 State of Nevada)
13 Defendant.)

Case No. # A20-820408-W

Dept. No. # 22

Docket No. # _____

a Hearing requested to

14 MOTION TO APPOINT COUNSEL

15 Date Of Hearing: _____

16 Time Of Hearing: _____

17 COMES NOW the Defendant Craig Rodgers in proper person and
18 hereby moves this Honorable Court for an ORDER granting him Counsel in the herein
19 proceeding action.

20 This Motion is made and based upon all papers and pleadings on File herein
21 and attached Points and Authorities.

22 Dated: This 09 Day Of Nov, 2020.

23 Respectfully Submitted,

24 RECEIVED

25 NOV 23 2020

26 CLERK OF THE COURT

27 BY: Craig Rodgers # 7221816
28 Defendant, In Forma Pauperis:

POINTS AND AUTHORITIES

NRS.34.750 Appointment of Counsel for indigents;pleading sipplemental to
petition;response to dismiss:

"If the Court is satisfied that the allegation of indigency is True and the
petition is Not dismissed summarily,the Court may appoint counsel to represent
the-"petitioner/defendant."

NRS.171.188 Procedure for appointment of attorney for indigent defendant:

"Any defendant charged with a public offense who is an indigent may, by oral
statement to the District Judge,justice of the peace,municipal judge or master,
request the appointment of an attorney to represent him."

NRS 178.397 Assignment of counsel;

"Every defendant accused of a gross misdemeanor or felony who is financially
unable to obtain counsel is entitled to have counsel assigned to represent him at
every stage of the proceedings from his initial appearance before a magistrate or
the court through appeal,unless he waives such appointment."

WHEREFORE ,petitioner/defendant,prays this Honorable Court will grant his
motion for the appointment of counsel to allow him the assistance that is needed
to insure that justice is served.

Dated:This 09 Day of Nov, 2020

Respectfully Submitted,

BY: Craig Rodgers # 1221818
Defendant, In Forma Pauperis:

////

////

////

ADDITIONAL FACTS OF THE CASE:

I respectfully request this court for appointment of post-conviction counsel as the issues presented in my pro se petition are difficult that failure to appoint counsel will prevent a meaningful litigation of appellant's petition, and since the petitioner is unable to comprehend the proceedings and the appointment of counsel is very ~~not~~ necessary to proceed with discovery per MN 34.780. And since trial counsel was ineffective since he failed to file a timely direct appeal after petitioner had requested a desire for a direct appeal and counsel's performance is deficient and prejudice is presumed under these facts

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF: CRAIG Rodgers

STATE OF NEVADA)
COUNTY OF CLARK) ss:

TO WHOM IT MAY CONCERN:

I, Craig Rodgers the undersigned, do hereby swear that
all statements, facts and events within my foregoing Affidavit are
true and correct of my own knowledge, information and belief, and
as to those, I believe them to be True and Correct. Signed under the
penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state
the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 29 Day OF Nov

20.

BY: Craig Rodgers #1221816
Post Office Box-208 (SDCC)
Indian Springs, Nevada 89070.
Affiant, In Propria Personam:

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 8th
day of Nov, 2020, I mailed a true and correct copy of the foregoing, "Motion
to Appoint Counsel"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Clerk of Courts
200 Lewis Ave
3rd Floor
LV No 89155

CC:FILE

DATED: this 8th day of Nov, 2020.

Craig 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 motion is

Appoint Counsel
(Title of Document)

filed in District Court Case number A-20-820408-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

Nov 9th, 2021
Date

Cora Rodgers
Print Name

Title _____

Ferris v. State 6
118 Nov. 823
pulmon. v. State
176.0931
176.153
176.145
176.186

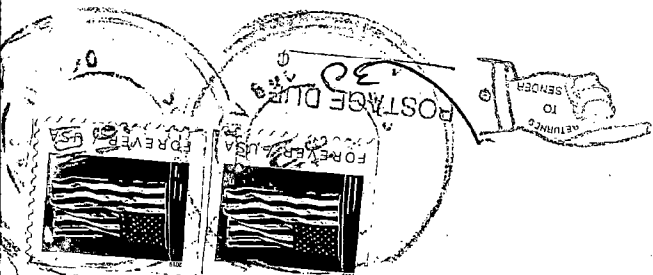
OUTGOING MAIL
NOV 10 2020
SOUTHERN DESERT
CORRECTIONAL CENTER

OUTGOING MAIL
NOV 10 2020
SOUTHERN DESERT
CORRECTIONAL CENTER

11-9-20

9910136300 C075 11/9/20

STEVEN GRIFFIN
CLERK OF THE COURT
800 LEWIS AVE 3rd Floor
LAS VEGAS NV 89155-1160



12/15/24

CRAIG RODGERS
#1221814
P.O. Box 208
Indian Springs NV, 89070

Heather L. Hume
CLERK OF THE COURT

ODM

~~ORDER~~

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CRAIG RODGERS,

Petitioner,

-vs-

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

Respondent.

CASE NO: A-20-820408-W

DEPT NO: XXII

ORDER DENYING PETITIONER'S MOTION TO APPOINT COUNSEL

DATE OF HEARING: December 8, 2020

THIS MATTER having come on for hearing before the above entitled Court on the 8th day of December, 2020, the Defendant not being present, represented in PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ALEXANDER CHEN, Chief Deputy District Attorney, and the Court having examined Petitioner's Motion to Appoint Counsel and good cause appearing therefor,

///

///

///

///

///

1 IT IS HEREBY ORDERED that the Petitioner's Motion to Appoint Counsel, shall be,
2 and it is DENIED.

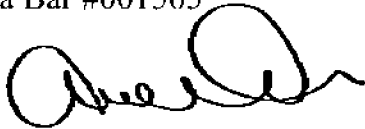
3 DATED this ~~23rd~~ day of December, ~~2020~~ Dated this 24th day of December, 2020

4 
5 DISTRICT JUDGE

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

F39 3A6 6495 EFE5
Susan Johnson
District Court Judge

9 BY



10 ALEXANDER CHEN
11 Chief Deputy District Attorney
12 Nevada Bar #10539

13 CERTIFICATE OF SERVICE

14 I certify that on the _____ day of _____, 2020, I mailed a copy of the foregoing Order
15 to:

16 CRAIG ROGERS, BAC #1221816
17 P.O. BOX 208
18 INDIAN SPRINGS, NV 89070

19 BY



20 Secretary for the District Attorney's Office
21
22
23
24
25
26
27
28

jm/L2

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case. The filer has been
14 notified to serve all parties by traditional means.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,

vs.

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

Supreme Court No. 82108
District Court Case No. A820408; ~~C314359~~

FILED

DEC 30 2020

CLERK'S CERTIFICATE

Elizabeth A. Brown
CLERK OF COURT

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS this appeal DISMISSED."

Judgment, as quoted above, entered this 3 day of December, 2020.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
December 28, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Danielle Friend
Chief Assistant Clerk

A - 20 - 820408 - W
CCJD
NV Supreme Court Clerks Certificate/Judg
4939712



IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,
vs.
WILLIAM HUTCHINGS, WARDEN;
STEVEN B. WOLFSON, DISTRICT
ATTORNEY; AND THE STATE OF
NEVADA,
Respondents.

No. 82108

FILED

DEC 03 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK


ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order denying a motion for appointment of counsel and request for evidentiary hearing. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Because no statute or court rule permits an appeal from an order denying a motion for appointment of counsel and request for evidentiary hearing, this court lacks jurisdiction to consider this appeal. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court

ORDERS this appeal DISMISSED.

 J.
Parraguirre

 J.
Hardesty

 J.
Cadish

cc: Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,
vs.
WILLIAM HUTCHINGS, WARDEN; STEVEN
B. WOLFSON, DISTRICT ATTORNEY; AND
THE STATE OF NEVADA,
Respondents.

Supreme Court No. 82108
District Court Case No. A820408; ~~C314359~~

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: December 28, 2020

Elizabeth A. Brown, Clerk of Court

By: Danielle Friend
Chief Assistant Clerk

cc (without enclosures):

Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City \ Aaron D. Ford, Attorney General

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on DEC 30 2020.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED
APPEALS

DEC 29 2020

CLERK OF THE COURT



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CRAIG RODGERS,
#1680324

Petitioner,

-vs-

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

Respondents.

CASE NO: A-20-820408-W

DEPT NO: XXII

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

DATE OF HEARING: January 7, 2021
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Petitioner's Petition for Writ of Habeas Corpus, and in support of the State's Motion to Dismiss the same.

This Response and Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

//

//

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On April 22, 2016, CRAIG RODGERS, aka Craig Allen Rodgers (hereinafter
4 “Petitioner”), was charged by way of Information with BATTERY WITH USE OF A
5 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
6 Felony – NRS 200.481); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON
7 (Category B Felony – NRS 200.460); FIRST DEGREE KIDNAPPING WITH USE OF A
8 DEADLY WEAPON RESULTING IN BODILY HARM (Category A Felony – NRS 200.310,
9 200.320, 193.165); MAYHEM WITH USE OF A DEADLY WEAPON (Category B Felony
10 – NRS 200.280, 193.165); and ROBBERY (Category B Felony – NRS 200.230) for his actions
11 on or about March 6, 2015. On November 28, 2016, the State filed a Notice of Intent to Seek
12 Punishment as a Habitual Criminal.

13 On June 5, 2017, the Public Defender’s Office filed a Motion to Withdraw as Counsel.
14 The Court granted that Motion on June 7, 2017. On June 12, 2017, the Special Public Defender
15 confirmed as counsel for Petitioner. On December 6, 2017, the Special Public Defender’s
16 Office filed a Motion for Withdrawal of Counsel. That Motion was granted on January 3,
17 2018, and Mr. Adam Gill, Esq. was appointed as counsel for Petitioner.

18 On July 13, 2018, the State filed an Amended Information, removing the count of False
19 Imprisonment. On July 16, 2018, Petitioner proceeded to jury trial on the Amended
20 Information. On July 17, 2018, pursuant to guilty plea negotiations, the State filed a Second
21 Amended Information charging Petitioner with FIRST DEGREE KIDNAPPING (Category A
22 Felony – NRS 200.310, 200.320) and MAYHEM (Category B Felony – NRS 200.280). The
23 Court canvassed Petitioner regarding the Guilty Plea Agreement (“GPA”), thereafter
24 accepting Petitioner’s guilty plea and setting the matter for sentencing.

25 On August 7, 2018, Petitioner filed a Motion to Appoint Alternate Counsel, wishing to
26 withdraw his guilty plea. On August 14, 2018, the Court granted Petitioner’s Motion, and
27 appointed Mr. John Parris, Esq. to review Petitioner’s case. Mr. Parris confirmed as counsel
28 on August 28, 2018. On September 6, 2018, the State advised the Court that it stipulated to

1 withdrawal of Petitioner's guilty plea. The Court allowed Petitioner to withdraw his guilty
2 plea, and set the matter for trial.

3 On August 5, 2019, the State requested that the Second Amended Information be
4 stricken due to Petitioner's withdrawal of his plea, and that the case proceed on the Amended
5 Information. The Court so ordered, and Petitioner's case proceeded to jury trial. On August 6,
6 2019, Petitioner accepted a second set of plea negotiations, and the State filed anew a Second
7 Amended Information charging Petitioner with SECOND DEGREE KIDNAPPING
8 (Category B Felony – NRS 200.310, 200.330); ROBBERY (Category B Felony – NRS
9 200.230); MAYHEM (Category B Felony – NRS 200.380); and PANDERING (Category C
10 Felony – NRS 201.300.1). Petitioner executed a GPA memorializing the parties' agreement.

11 After canvassing Petitioner, and accepting Petitioner's guilty plea, the Court proceeded
12 to adjudicate Petitioner guilty, and sentence him, as follows: **Count 1** (Second Degree
13 Kidnapping) – forty-eight (48) to one hundred eighty (180) months in the Nevada Department
14 of Corrections ("NDC"); **Count 2** (Robbery) – twenty-four (24) to sixty (60) months in NDC,
15 consecutive to Count 1; **Count 3** (Mayhem) – twenty-four (24) to sixty (60) months in NDC,
16 concurrent with Count 2; and **Count 4** (Pandering) – twenty-four (24) to sixty (60) months in
17 NDC, concurrent with Count 3, for a total aggregate sentence of seventy-two (72) to two
18 hundred forty (240) months in NDC. The Court gave petitioner credit for time served totaling
19 1218 days. Petitioner's Judgment of Conviction was filed on August 23, 2019.

20 On September 24, 2019, Petitioner filed a Notice of Appeal. However, on November
21 25, 2019, the Nevada Supreme Court dismissed Petitioner's appeal as untimely. Remittitur
22 issued on December 26, 2019.

23 On August 31, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus
24 (Post-Conviction). That same day, he also filed an Ex Parte Motion for Appointment of
25 Counsel and Request for Evidentiary hearing. On October 27, 2020, this Court entered an
26 Order Denying Petitioner's Motion for Appointment of Counsel and Request for Evidentiary
27 Hearing.

28 //

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8

6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8

1 Id. Therefore, in such cases, the one-year time limit for filing for habeas relief begins to run
2 from the date of the judgment of conviction. See id. at 1087, 967 P.2d at 1133-34.

3 The one-year time limit for preparing petitions for post-conviction relief under NRS
4 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
5 the Nevada Supreme Court rejected a habeas petition that was filed two days late despite
6 evidence presented by the defendant that he purchased postage through the prison and mailed
7 the Notice within the one-year time limit.

8 Furthermore, the Nevada Supreme Court has held that the district court has a *duty* to
9 consider whether a defendant's post-conviction petition claims are procedurally barred. State
10 v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The
11 Riker Court found that "[a]pplication of the statutory procedural default rules to post-
12 conviction habeas petitions is mandatory," noting:

13 Habeas corpus petitions that are filed many years after conviction are an
14 unreasonable burden on the criminal justice system. The necessity for a workable
system dictates that there must exist a time when a criminal conviction is final.

15 Id. Additionally, that Court noted that procedural bars "cannot be ignored [by the district court]
16 when properly raised by the State." Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
17 has granted no discretion to the district courts regarding whether to apply the statutory
18 procedural bars; the rules *must* be applied.

19 In the instant case, Petitioner's Judgment of Conviction was filed on August 23, 2019.
20 Petitioner did not timely file a direct appeal. Therefore, pursuant to NRS 34.726(1), Petitioner
21 had until August 23, 2020, to timely file his petition for writ of habeas corpus. The instant
22 Petition was not filed until August 31, 2020, outside the one-year deadline for a timely petition.
23 As such, the State respectfully requests that this Court dismiss Petitioner's instant Petition as
24 untimely.

25 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO OVERCOME**
26 **HIS PROCEDURAL DEFAULT**

27 To avoid procedural default, under NRS 34.726, a petitioner has the burden of pleading
28 and proving specific facts that demonstrate good cause for his failure to present his claim in

1 earlier proceedings or to otherwise comply with the statutory requirements, *and* that he will
2 be unduly prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden,
3 109 Nev. 952, 959–60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep’t of Prisons, 104
4 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

5 “To establish good cause, appellants *must* show that an impediment external to the
6 defense prevented their compliance with the applicable procedural rule.” Clem v. State, 119
7 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
8 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. “A qualifying
9 impediment might be shown where the factual or legal basis for a claim was not reasonably
10 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003).
11 The Court continued, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81
12 P.3d at 526. Examples of good cause include interference by State officials and the previous
13 unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op. 19, 275 P.3d
14 91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault of the
15 petitioner. NRS 34.726(1)(a).

16 Petitioner does not recognize that his instant Petition is untimely, much less does he
17 address good cause for his failure to comply with the statutory deadline. See, Petition at 6
18 (answering “N/A” when asked if the petition is untimely). Because Petitioner does not allege,
19 much less demonstrate, good cause exists, Petitioner cannot overcome the time-bar to his
20 instant Petition. NRS 34.726(1)(a). As such, the State respectfully requests that Petitioner’s
21 instant Petition be dismissed in its entirety.

22 **III. PETITIONER CANNOT DEMONSTRATE PREJUDICE, AS HIS**
23 **INDIVIDUAL CLAIMS EITHER FALL OUTSIDE THE SCOPE OF HABEAS**
24 **REVIEW OR OTHERWISE LACK MERIT**

25 In order to establish prejudice, the defendant must show “‘not merely that the errors of
26 [the proceedings] created possibility of prejudice, but that they worked to his actual and
27 substantial disadvantage, in affecting the state proceedings with error of constitutional
28 dimensions.’” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United

1 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
2 must be a “substantial reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev.
3 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
4 1230 (1989)).

5 A proper petition for post-conviction relief must set forth specific factual allegations
6 that would entitle the petitioner to relief. NRS 34.735(6) states, in pertinent part, “[Petitioner]
7 must allege specific facts supporting the claims in the petition [he] file[s] seeking relief from
8 any conviction or sentence. Failure to raise specific facts rather than just conclusions may
9 cause the petition to be dismissed.” “Bare” and “naked” allegations are not sufficient to
10 warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
11 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “A claim is ‘belied’ when it is contradicted
12 or proven to be false by the record as it existed at the time the claim was made.” Mann v. State,
13 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

14 In the case of a guilty plea, habeas review is limited in its scope. NRS 34.810(1)
15 explains:

16 The court *shall* dismiss a petition if the court determines that:

17 (a) The petitioner’s conviction was upon a plea of guilty or guilty but
18 mentally ill and the petition is not based upon an allegation that the plea was
19 involuntarily or unknowingly entered or that the plea was entered without
effective assistance of counsel.

20 ...

21 unless the court finds both cause for the failure to present the grounds and actual
prejudice to the petitioner.

22 (emphasis added). The Nevada Supreme Court has explained:

23 “[A] guilty plea represents a break in the chain of events which has preceded it
24 in the criminal process. When a criminal defendant has solemnly admitted in
25 open court that he is in fact guilty of the offense with which he is charged, he
26 may not thereafter raise independent claims relating to the deprivation of
constitutional rights that occurred prior to the entry of the guilty plea.”

27 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411
28 U.S. 258, 267, 93 S.Ct. 1602, 1608 (1973)). An entry of a guilty plea “waive[s] all

1 constitutional claims based on events occurring prior to the entry of the plea[], except those
2 involving voluntariness of the plea[] [itself].” Warden, Nevada State Prison v. Lyons, 100
3 Nev. 430, 431, 683 P.2d 505 (1984); see also Kirksey v. State, 112 Nev. 980, 999, 923 P.2d
4 1102, 1114 (1996) (“Where the defendant has pleaded guilty, the only claims that may be
5 raised thereafter are those involving the voluntariness of the plea itself and the effectiveness
6 of counsel.”). When a petitioner alleges ineffective assistance of counsel after pleading guilty,
7 the Nevada Court of Appeals recently held:

8 “a petitioner must allege specific facts demonstrating both that counsel’s advice
9 (or failure to give advice) regarding the guilty plea was objectively unreasonable
10 and that the deficiency affected the outcome of the plea negotiation process. Any
11 claim that does not satisfy this standard is outside the scope of permitted claims
12 and must be dismissed...Because events occurring after the entry of the plea
13 cannot have affected either counsel’s advice regarding entering the guilty plea
or the outcome of the plea negotiation process, ineffective-assistance claims
relating to post-plea proceedings necessarily fall outside the scope of claims
permitted by NRS 34.810(1)(a).”

14 Gonzalez v. State, 136 Nev. Adv. Op. 60, 476 P.3d 84, 90 (Nev. Ct. App. Oct. 1, 2020).

15 Furthermore, the Nevada Supreme Court has held that “challenges to the validity of a
16 guilty plea and claims of ineffective assistance of trial and appellate counsel must first be
17 pursued in post-conviction proceedings.... [A]ll other claims that are appropriate for a direct
18 appeal must be pursued on direct appeal, or they will be *considered waived in subsequent*
19 *proceedings*.” Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis
20 added) (disapproved of on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222
21 (1999)). “A court must dismiss a habeas petition if it presents claims that either were or could
22 have been presented in an earlier proceeding, unless the court finds both cause for failing to
23 present the claims earlier or for raising them again and actual prejudice to the petitioner.”
24 Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001), overruled on other grounds

25 //

26 //

27 //

28 //

1 by Lisle v. State, 131 Nev. 356, 351 P.3d 725 (2015). Additionally, substantive claims are
2 beyond the scope of habeas and waived. NRS 34.724(2)(a); see also Evans, 117 Nev. at 646-
3 47, 29 P.3d 498 at 523; Franklin, 110 Nev. at 752, 877 P.2d 1058 at 1059.

4 In the instant case, Petitioner raises numerous claims for habeas relief. However,
5 Petitioner fails to recognize that his claims are waived for his failure to raise them on direct
6 appeal, are outside the scope of habeas review, are belied by the record, or are otherwise
7 without merit; therefore, Petitioner cannot demonstrate prejudice sufficient to overcome his
8 procedural default.

9 **A. Counsel's failure to file a timely direct appeal**

10 Petitioner first alleges that plea counsel was ineffective for failing to file a timely direct
11 appeal. Petition at 7. This claim is outside the scope of a challenge to Petitioner's Judgment
12 of Conviction, as it does not involve the voluntariness of Petitioner's guilty plea, nor counsel's
13 effectiveness during entry of Petitioner's guilty plea. Kirksey, 112 Nev. at 999, 923 P.2d at
14 1114. Therefore, this claim cannot demonstrate prejudice related to the dismissal of
15 Petitioner's instant Petition, as the claim itself is not properly raised.

16 Furthermore, in the event Petitioner seeks to raise this claim to demonstrate good cause
17 for Petitioner's failure to timely file the instant Petition, such an effort falls short because the
18 substance of this claim is belied by the record. A review of this claim reveals that Petitioner
19 alleges that counsel was purposefully delinquent due to his "contentious relationship" with
20 Petitioner. Petition at 7-A:11-13. However, when executing the GPA, Petitioner affirmed that
21 he was satisfied with counsel's representations. See, GPA (filed on August 6, 2019) at 6:1-2.
22 Indeed, without more, Petitioner cannot substantiate his claim, as the United States Supreme
23 Court has explained that defendants are not entitled to any particular "relationship" with their
24 counsel. Morris v. Slappy, 461 U.S. 1, 14, 103 S.Ct. 1610, 1617 (1983). Because Petitioner's

25 //

26 //

27 //

28 //

claim is belied by the record, and further unsupported by any evidence, Petitioner's claim cannot demonstrate good cause, much less prejudice, to overcome Petitioner's untimeliness. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

B. District Court's failure to toll time for filing direct appeal

Petitioner next alleges a denial of his Due Process rights, due to the Court's failure to "toll" the time for Petitioner to file his direct appeal. Petition at 8. Petitioner cannot demonstrate prejudice resulting from dismissal of this claim, as the claim itself is without merit.

The Nevada Rules of Appellate Procedure are clear: "...the *notice of appeal* by a defendant or petitioner in a criminal case shall be *filed* with the district court clerk within 30 days after the entry of the judgment or order being appealed." NRAP 4(b)(1)(A) (emphases added). The Nevada Supreme Court has explained the consequences of failure to *file* such a notice within that time: "We have consistently held that an untimely notice of appeal fails to vest jurisdiction in this court." Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994) (abrogated on other grounds by Rippo v. State, 134 Nev. 411, 423 P.3d 1084 (2018)).

In the instant case, Petitioner failed to *file* a notice of appeal within the 30-day deadline of NRAP 4(b)(1)(A). Therefore, the Nevada Supreme Court did not have jurisdiction to consider Petitioner's direct appeal. Lozada, 110 Nev. at 352, 871 P.2d at 946.

Petitioner attempts to argue that because he voiced his desire to appeal from his Judgment of Conviction, the Court should have somehow "tolled" the time within which Petitioner was required to file his notice of appeal. Petition at 8. However, Petitioner fails to support this proposition with any relevant legal authority. See id. As such, Petitioner's claim is bare and naked and insufficient to demonstrate prejudice. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

//

//

//

//

1 **C. Counsel’s failure to allege ineffective assistance of counsel at preliminary**
2 **hearing on direct appeal**

3 Petitioner’s next claim alleges that plea counsel was ineffective for failing to raise a
4 direct appeal challenge to the effectiveness of Petitioner’s counsel at the preliminary hearing.
5 Petition at 9. Petitioner fails to recognize that this claim is outside the scope of habeas review,
6 and that Petitioner waived the substance of this claim by deciding to plead guilty.

7 Petitioner does not, and could not, claim that plea counsel’s decisions on direct appeal
8 could have affected the voluntariness of Petitioner’s guilty plea. Petition at 9, 9-A. Nor does
9 Petitioner claim that plea counsel’s effectiveness regarding entry of Petitioner’s guilty plea
10 was affected by the issues plea counsel briefed, or neglected to brief, in the untimely direct
11 appeal effort. Id. Therefore, Petitioner’s claim is outside the scope of the instant habeas review,
12 and cannot demonstrate prejudice to overcome Petitioner’s timeliness. Kirksey, 112 Nev. at
13 999, 923 P.2d at 1114.

14 Moreover, the Nevada Supreme Court has been clear: a defendant’s decision to plead
15 guilty waives any claims of constitutional issues that arose prior to entry of that guilty plea.
16 Webb, 91 Nev. at 470, 538 P.2d at 165. Therefore, the effectiveness of counsel at Petitioner’s
17 preliminary hearing is not subject to review, as it necessarily preceded Petitioner’s decision to
18 plead guilty. Because Petitioner waived the underlying substance of this claim when he chose
19 to accept guilty plea negotiations, Petitioner cannot demonstrate that he would be prejudiced
20 by this Court’s dismissal of this claim as untimely.

21 **D. District Court’s denial of Petitioner’s Motion to Remand to Justice Court**

22 Petitioner next alleges that plea counsel was somehow ineffective upon the Court’s
23 denial of Petitioner’s attempt to return to Justice Court for a “new preliminary [hearing].”
24 Petition at 10. As a preliminary issue, Petitioner does not actually state any claims regarding
25 plea counsel’s ineffectiveness; instead, Petitioner seems to complain only about the Court’s
26 decision to deny Petitioner’s motion for remand. Id. at 10, 10-A. Petitioner did not seek to
27 appeal the Court’s denial, nor did Petitioner seek a writ of mandamus regarding his efforts.
28 Therefore, Petitioner waived this claim by failing to pursue it before entering his guilty plea.

1 Evans, 117 Nev. at 646-47, 29 P.3d at 523. Moreover, Petitioner's substantive claim of district
2 court error is expressly beyond the scope of habeas review. NRS 34.724(2)(a).

3 Because Petitioner waived this claim, and because it is beyond the scope of habeas
4 review, Petitioner cannot demonstrate prejudice from this Court's dismissal of Petitioner's
5 claim as untimely.

6 **E. Counsel's alleged withholding of information before Petitioner's guilty plea**

7 Petitioner next complains that plea counsel withheld information from Petitioner in
8 order to induce Petitioner's guilty plea. Petition at 11. Petitioner's claim is based entirely on
9 references to Petitioner's self-serving letter to the Court. See id. at 11:6-17, 22-27. As such,
10 Petitioner's claim is bare and naked, and suitable only for dismissal under Hargrove, 100 Nev.
11 at 502, 686 P.2d at 225.

12 Moreover, Petitioner's self-serving allegations are belied by the record. Petitioner, upon
13 executing the GPA, specifically affirmed the voluntariness of his plea, asserting: "I believe
14 that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would
15 be contrary to my best interest." GPA at 5. Further, the Court's withdrawal of the material
16 witness warrant does not demonstrate that plea counsel was misinformed; pursuant to NRS
17 178.494, the witness could have been in custody on that warrant, and the withdrawal of such
18 warrant would result in the release of that witness. As such, Petitioner's claim is belied by the
19 record, and therefore should be dismissed. Hargrove, 100 Nev. at 502, 686 P.2d at 225.
20 Furthermore, the State submits that the mere reference to a warrant is *not* a "specific factual
21 allegation" that demonstrates counsel misled Petitioner as to the availability of a witness. See
22 Gonzalez, 136 Nev. Adv. Op. 60, 476 P.3d at 90.

23 Because Petitioner's claim is bare and naked, and further belied by the record, this
24 claim cannot demonstrate prejudice sufficient to overcome Petitioner's procedural default.

25 //

26 //

27 //

28 //

1 **F. Counsel's alleged misleading Petitioner regarding the defense expert's**
2 **availability for trial**

3 Petitioner next raises a claim that plea counsel was ineffective by misleading Petitioner
4 as to the defense medical expert witness's availability to testify at trial. Petition at 12. Again,
5 Petitioner relies only on his self-serving letter to the Court to substantiate his claim. See id. At
6 12:6-13. Furthermore, a close review of Petitioner's individual allegations shows that
7 Petitioner does not demonstrate that plea counsel was incorrect in his representation that the
8 medical expert was unavailable at the time. See id. at 12, 12-A. As a result, Petitioner's claim
9 is rendered bare and naked, as it is unsupported by specific facts demonstrating Petitioner is
10 entitled to relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225; NRS 34.735(6).

11 Because Petitioner has failed to plead specific facts that, if true, would entitle Petitioner
12 to relief, Petitioner cannot demonstrate that he will be prejudiced by this Court's dismissal of
13 this claim as untimely.

14 **G. District Court's denial of Petitioner's attempt to withdraw guilty plea**

15 Petitioner next makes a derivative claim based on his earlier arguments about being
16 misled by counsel, arguing that the Court erred by denying his post-sentence attempt to
17 withdraw his guilty plea. Petition at 13. Petitioner, again, relies on his letter to the Court,
18 without any further substantiation of his claim. See id. However, as stated *supra.*, the claims
19 from which this claim is derived are themselves bare and naked; therefore, Petitioner's instant
20 derivative claim cannot provide a basis for relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225;
21 NRS 34.735(6).

22 Petitioner also seems to allege that he did not have an opportunity to review his PSI,
23 despite the PSI being prepared nearly one (1) year prior to Petitioner's sentencing.¹ Petition at
24 13. However, this proposition is belied by the record. Upon accepting Petitioner's guilty plea,
25 and sentencing Petitioner, the Court retained jurisdiction to consider restitution as well as to
26

27 ¹ In the event Petitioner seeks to challenge the fact that the PSI was prepared almost one (1)
28 year prior to his guilty plea and sentencing, such an argument would be contrary to Nevada
law. NRS 176.135(3)(b) explains that a PSI may be made within the five (5) years preceding
a defendant's sentencing.

1 address any Stockmeier issues in the PSI. See, Court Minutes, dated August 6, 2019, at 2.
2 Thereafter, on August 20, 2019, the Court conducted a hearing specifically to address both
3 restitution and Petitioner's PSI. See, Court Minutes, dated August 20, 2019. As such,
4 Petitioner was given two (2) weeks to review and raise any issues found within his PSI before
5 his conviction became final on August 23, 2019. Because Petitioner's PSI allegations are
6 belied by the record, they cannot form grounds for relief under Hargrove. 100 Nev. at 502,
7 686 P.2d at 225.

8 Petitioner's claim is derivative of other claims that likewise cannot form a basis for
9 finding prejudice. It likewise includes allegations that are belied by the record. Therefore, the
10 State respectfully submits that Petitioner cannot demonstrate prejudice sufficient to overcome
11 Petitioner's untimeliness.

12 **H. State's alleged failure to dismiss separate case pursuant to the GPA**

13 Petitioner finally claims that the State failed to comply with the terms of the GPA
14 because the GPA contemplated a charge that was originally raised in a separate criminal case.
15 Petition at 14. Petitioner fails to recognize that this claim is outside the scope of the instant
16 habeas review. Further, Petitioner fails to acknowledge the factual basis for the inclusion of
17 the single charge, which belies Petitioner's claim.

18 Petitioner's final claim does not relate to the voluntariness of Petitioner's plea, nor does
19 it allege ineffective assistance of plea counsel. See Petition at 14, 14-A. Therefore, this claim
20 is not properly before this court and should be dismissed. Kirksey, 112 Nev. at 999, 923 P.2d
21 at 1114.

22 Furthermore, the record belies Petitioner's claim that he was unaware that the State's
23 dismissal of the separate case would not include the single charge included in the Second
24 Amended Information. See Petition at 14:11-13. Upon executing the Guilty Plea Agreement

25 //

26 //

27 //

28 //

(which incorporated the Second Amended Information by reference), Petitioner expressly agreed to plead guilty to Pandering. GPA at 1:19. Petitioner further affirmed the voluntariness of his decision, explaining:

I have discussed the elements of the original charge(s) against me with my attorney and *I understand the nature of the charge(s) against me.*

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

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

GPA at 5:7-14 (emphasis added). Further, rather than being “odd,” or disingenuous, as Petitioner attempts to assert, the Second Amended Information was included as “Exhibit 1” to Petitioner’s GPA. Finally, the Court Minutes reflect that the Court canvassed Petitioner regarding the entry of his guilty plea, which included the Pandering charge. See, Court Minutes, dated August 6, 2019. Therefore, Petitioner was aware at the time he executed the GPA that the State would be including the single charge from the separate case; he was likely aware, then, that the State’s agreement to dismiss the separate case would clearly be a reference to the remaining claims charged in that case. See GPA at 1:25-26. As such, Petitioner’s claim is belied by the record and is suitable only for dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

Because Petitioner’s claim is outside the scope of the instant habeas review, and because it is belied by the record, Petitioner’s claim cannot demonstrate prejudice sufficient to overcome the procedural bar to Petitioner’s instant Petition.

//

//

//

//

//

//

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED this 31st day of December, 2020.

BY /s/John Niman
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408

I hereby certify that service of the above and foregoing was made this 31st day of December, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

BY /s/ Zem Martinez
Zem Martinez,
Secretary for the District Attorney's Office

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
1/5/2021 1:48 PM
Steven D. Grierson
CLERK OF THE COURT



Craig Rodgers, Plaintiff(s)

vs.

William Hutchings Warden, Defendant(s)

Case No.: A-20-820408-W

Department 22

NOTICE OF HEARING

Please be advised that the State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post Conviction) in the above-entitled matter is set for hearing as follows:

Date: January 07, 2021

Time: 9:00 AM

Location: RJC Courtroom 15D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Allison Behrhorst
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Allison Behrhorst
Deputy Clerk of the Court



CSERV
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #014408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CRAIG RODGERS,
#1680324

Petitioner,

-vs-

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

Respondents.

CASE NO: A-20-820408-W

DEPT NO: XXII

CERTIFICATE OF SERVICE

I certify that on the 19th day of January, 2021, I served a copy of the State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction), via U.S. Mail, postage pre-paid, to:

CRAIG RODGERS, #1221816
c/o S.D.C.C.
P.O. BOX 208
INDIAN SPRINGS, NV 89070-0208

BY /s/ J. Georges
Secretary for the District Attorney's Office

jg/DVU

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at S.D. CC

3 My mandatory release date is _____.

4
5 2. The Department of Corrections is required to transport offenders to and
6
7 from Court if an inmate is required or requests to appear before a Court in this state.
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is
11 required or requested to appear before a Court in this state, the
12 Department shall transport the offender to and from Court on the day
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the
15 Department shall transport the offender to Court on the date scheduled
16 for his appearance if it is possible to transport the offender in the usual
17 manner for the transportation of offenders by the Department. If it is
18 not possible for the Department to transport the offender in the usual
19 manner:

20 (a) The Department shall make the offender available on the date scheduled
21 for his appearance to provide testimony by telephone or by video conference,
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to
24 and from the Court, if the Court so orders. If the Court orders special
25 transportation, it shall order the county in which the Court is located to
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

1 ☒ I AM NEEDED AS A WITNESS.

2 My petition raises substantial issues of fact concerning events in which I
3 participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S.
4 205 (1952) (District Court erred when it made findings of fact concerning
5 Hayman's knowledge and consent to his counsel's representation of a witness
6 against Hayman without notice to Hayman or Hayman's presence at the
7 evidentiary hearing).

8 ☒ THE HEARING WILL BE AN EVIDENTIARY HEARING.

9 My petition raises material issues of fact that can be determined only in my
10 presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention
11 that allegations are improbable and unbelievable cannot serve to deny the
12 petitioner an opportunity to support them by evidence). The Nevada
13 Supreme Court has held that the presence of the petitioner for habeas corpus
14 relief is required at any evidentiary hearing conducted on the merits of the
15 claim asserted in the petition. *See Gebers v. Nevada*, 118 Nev. 500 (2002).

16 4. The prohibition against ex parte communication requires that I be present
17 at any hearing at which the state is present and at which issues concerning the claims
18 raised in my petition are addressed. U.S. Const. amends. V, VI.

19 5. If a person incarcerated in a state prison is required or is requested to
20 appear as a witness in any action, the Department of Corrections must be notified in
21 writing not less than 7 business days before the date scheduled for his appearance in
22 Court if the inmate is incarcerated in a prison located not more than 40 miles from
23 Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or
24 more from Las Vegas, the Department of Corrections must be notified in writing not
25 less than 14 business days before the date scheduled for the person's appearance in
26 Court.

27 6. S.D.C.C. is located approximately

28 40 miles from Las Vegas, Nevada.

1 7. If there is insufficient time to provide the required notice to the Department
2 of Corrections for me to be transported to the hearing, I respectfully request that this
3 Honorable Court order the Warden to make me available on the date of the
4 scheduled appearance, by telephone, or video conference, pursuant to NRS
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the
6 evidentiary hearing.

7 8. The rules of the institution prohibit me from placing telephone calls from
8 the institution, except for collect calls, unless special arrangements are made with
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my
10 telephone appearance can be made by contacting the following staff member at my
11 institution: SVCC, MS-COOK
12 whose telephone number is ~~702~~-725-216-6500 Ext 66411

13
14 Dated this 13 day of JANUARY, 2021.

15
16 Craig Rodgers #1221816

17
18
19 am m
20
21
22
23
24
25
26
27
28
29

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 13th day of JANUARY, 2021, I mailed a true and correct copy of the foregoing, "MOTION And order for Transportation of inmate for Court Appearance" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

STEVEN GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS, NV 89155

WILLIAM HUTCHINS
WARDEN
20825 COLD CREEK ROAD
INDIAN SPRINGS, NV 89070

STEVE B. WOLFSON
200 LEWIS AVE
LAS VEGAS, NV 89155-2212

CC:FILE

DATED: this 13th day of JANUARY, 2021.

Craig 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 MOTION AND ORDER

For Transportation of inmate for court Appearance
(Title of Document)

filed in District Court Case number A-20-820408-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

1-13-2021
Date

Craig Rodgers
Print Name

Title

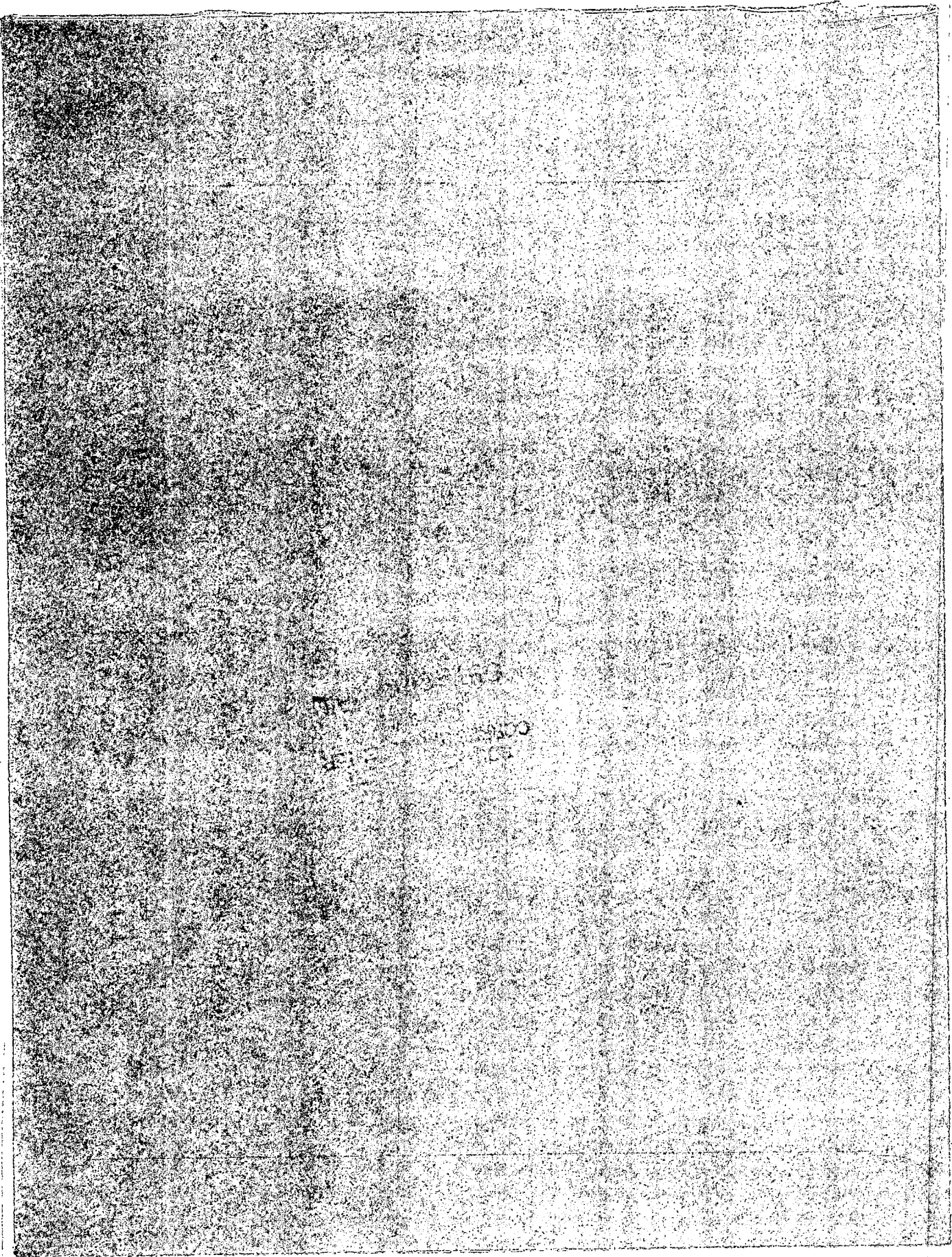
Craig. Rodgers #1221816
P.O. Box 208
Indian Springs, NV, 89070

Master FIRST-CLASS MAIL
01/20/2021
USPS **POSTAGE** \$001.20
ZIP 89101
011E12660516

3738
ASH 2490218

STEVEN D. GRIERSON
CLERK OF THE COURT
200 Lewis Ave, 3rd Floor
LAS Vegas NV 89155-1160

RECEIVED
JAN 25 2021
CLERK OF THE COURT



27

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

Craig Rodgers)
Petitioner,)

v.)

William Hutchings Warden)
Steven B. Wolfson)
State of Nevada)

Case No. A-20-820408-W

Dept. No. 22

Respondent.)

ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE
OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO
CONFERENCE

Based upon the above motion, I find that the presence of
_____ is necessary for the hearing that is scheduled in this
case on the _____ day of _____, _____ at
_____.

THEREFOR, IT IS HEREBY ORDERED that,

☐ Pursuant to NRS 209.274, Warden _____
of _____ is hereby commanded to have
_____ transported to appear before me at a hearing
scheduled for _____ at _____ at the
_____ County Courthouse. Upon completion of the hearing,

1 _____ is to be transported back to the above
2 named institution.

3
4 ☐ Pursuant to NRS 209.274(2)(a), Petitioner shall be made available for telephonic
5 or video conference appearance by his or her institution. My clerk will contact
6 _____ at _____ to make
7 arrangements for the Court to initiate the telephone appearance for the hearing.
8

9 Dated this _____ day of _____.

10
11
12
13 _____
14 District Court Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

No Stamp
copy requested

Electronically Filed
02/17/2021

Heather J. Smith
CLERK OF THE COURT

CODE: 3860
Name: Craig Rodgers
Address: P.O. Box 208
Indian Springs, NV 89070
Telephone: _____
Acting in Proper Person

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

Craig Rodgers
Plaintiff (Petitioner),

Case No. A-20-820408W

vs. William Hutchinsons warden
Steven Veltson

Dept. No. 26

Defendant (Respondent).
State of Nevada

REQUEST FOR SUBMISSION

I, Craig Rodgers, acting in Proper Person, request that the
reply to States response and motion to dismiss filed on 12-31-2020
be submitted to the Court for consideration and determination.

I hereby certify that a copy of this Request has been mailed to all parties or their counsel.
DATE: 1-26-21

Craig Rodgers
(Signature)

Craig Rodgers
(Name)

P.O. Box 208
(Address)

Indian Springs NV 89070

(Telephone Number) **RECEIVED**

FEB - 2 2021

CLERK OF THE COURT

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Reply to the

State's motion and motion to dismiss HABEAS CORPUS
(Title of Document)

filed in District Court Case number A-20-820408-W

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

-OR-

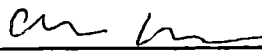
☐ Contains the social security number of a person as required by:

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

1-24-21
Date

Chris Rodsel
Print Name

N/A
Title

Craig Rodgers #1221816
S.D.C.C.
P.O. Box 208
Indian Springs NV 89070

Hasler
01/29/2021
US POSTAGE \$003.40
ZIP 89101
011212550616

3738
13#240808

Steven D. Grierson
Clerk of the Court
200 Lewis Ave, 3rd Floor
Las Vegas, NV 89155-1160

RECEIVED
FEB - 2 2021
CLERK OF THE COURT
RECEIVED
FEB - 3 2021
CLERK OF THE COURT

Stamp copy
file requested 78

Cross Merged ID NO. 1221816

Electronically Filed
02/17/2021

Heather L. Smith
CLERK OF THE COURT

SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89010

Eighth Judicial District Court
Clark County, Nevada

Craig Rodgers
#1680324

CASE NO.: A-20-820408-W

DEPT. NO.: XXII

DOCKET: _____

William Hutchings, Warden
Steven B. Wolfson, District Attorney
and The State of Nevada

Petitioners reply to States response and motion to Dismiss
Petition for writ of Habeus Corpus c Post-Conviction

COMES NOW, Petitioner, Craig Rodgers, herein above respectfully
moves this Honorable Court for an order denying the States motion to
dismiss, and an order granting Petitioners Post Conviction Writ
of Habeus Corpus c Post-Conviction

This Motion is made and based upon the accompanying Memorandum of Points and
Authorities,

DATED: this 26th day of January, 2021

BY: *Craig Rodgers*
Craig Rodgers # 1221816
Defendant In Proper Personam

RECEIVED
FEB - 2 2021
CLERK OF THE COURT

1 The States response should be stricken for not responding to the petitioner
2 for writ of Habeus Corpus written order within 45 days after the date
3 of the signed order on September 9th, 2020 in accordance with the
4 Provisions of N.R.S. 34.360 to 34.830, inclusive. The Petitioner's instant
5 Petition is not timebarred Pursuant to N.R.S. 34.726(1) A party must
6 demonstrate this it is not his fault and that dismissal of the petition will
7 Unduly Prejudice him, since the Clerk of the court received the writ of Habeus
8 Corpus on August 20, 2020. The Nevada Supreme Court has indicated in
9 "Fawcett v. State, 115 NEV. 682 (1989) That denial of the right to appeal deprives
10 a person of a basic right that presumably Prejudice the petitioner, so the
11 Appropriate remedy would be to allow Rodgers an opportunity to raise in a petition
12 for a writ of Habeus Corpus, Any issues which he could have been raised on
13 direct appeal see "Lozada v. State 110 NEV. 349 (1994), Also for the purposes
14 of N.R.S. 34.726 The Petition was NOT filed until it was actually received by
15 the district court see "Zellis v. State 2012 NEV. UN Pub. Lexis 1390, which
16 Petitioner's writ of Habeus Corpus was actually received by The Clerk of The
17 Court on August 20, 2020 way after the deadline, Also Petitioner has filed several
18 Grievances to try and get my writ of Habeus Corpus out on time, The last
19 Grievance Petition was filed on August 17th, because I was being denied access
20 to the courts and the law library to make copies and send them out that day,
21 at which it was not until two days later that they let me finally get to
22 make my copies and send ~~out~~ my Habeus Corpus on August 19th, 2020. I'm
23 also sending the court my receipts for August 19th, so it was up to the clerk
24 of the court to file it when it was received by the court on August 20th 2020
25 This proceeding may represent my sole opportunity to have a court review the
26 conviction or post conviction claims, AS The Nevada Supreme Court has said
27 "Franklin v. State 110 NEV. 750, 877, 201058 (1994), IF A Petitioner for A
28 Post-Conviction writ of Habeus Corpus demonstrates that he did not knowingly

1 Wave his right to an appeal, The district court shall appoint counsel
2 to represent the petitioner and counsel shall present issues that could
3 have been raised in a direct appeal "GEBERS v. State 118 NEV. 600; 50 P.3d
4 1092 (2002). Also NRS 176.153 States, not later than 14 calendar days
5 before the defendant will be sentenced, The defendant has the right to go
6 over The PSI with his counsel, which clearly did happen since petitioner
7 got sentenced on the same day he signed the guilty plea and saw the PSI
8 for the first time. Also NRS 176.156(7) states the PSI must not include
9 information based on any impalpable or highly suspect evidence and all
10 inaccuracies in the PSI needed to be corrected, and since the defendant the
11 opportunity to object to the whole PSI being wrong; "Stockmeien
12 v. State 127 NEV. 243, Because they still may be materially Prejudicial
13 of the potential effect on the petitioner's Classification or Parole Eligibility,
14 "Gomez v. State 324 P.3d 1226 (2014). The State is held "to the
15 most Meticulous standards of both Promise and Performance in fulfillment
16 of its part of a Plea Bargain" And must avoid violation Either the terms
17 or The spirit of The agreement, SEE Sullivan 115 NEV. at 387, 990 P.2d
18 at 1260, "Max Field v. State, 2012 NEV. UNPub. Lexis 486; And
19 According To "NRAP(B) (5A)-Judgement of conviction - The District Court
20 Judge shall ENTER a written Judgement of conviction within 10 days after
21 sentencing which was on "August 6th, 2019, but it wasn't Filed until
22 August 23, 2019 which is 17 days later, and since the State agreed to
23 dismiss case C316167 AFTER Rendition of SENTENCE, The State Clearly
24 Breached the Plea agreement By Putting both cases together under one
25 case number. An ATTORNEY has a duty to perfect an Appeal when a
26 convicted defendant Expresses a desire to appeal or Indicates Dissatisfaction
27 with a conviction, Prejudice may be Presumed for Purposes of Establishing

1 the ineffective Assistance of Counsel when Counsel's conduct completely denies
2 a convicted defendant an appeal Petitioner Presumably suffered prejudice
3 because he was DEPRIVED of His Right to appeal, AS stated on the court
4 minutes for August 20, 2019 when Petitioner Indicated he wanted to
5 Appeal, And Mr. PARRIS said on Record he would File a Notice of Appeal.
6 The Nevada Supreme court has said the Remedy is incomplete IF the
7 District court does not provide the Petitioner with the Assistance of Counsel
8 to Identify and Pursue any Potential direct Appeal claims. Also in *Gonzales V.*
9 *State* 118 N.E.V. 590; 53 P.3d 901 (2002), In That case Gonzales had until
10 Monday, May 22, 2000 to File a timely Post-conviction Petition For a writ of
11 habeas corpus, THE District court received The Petition on May 23, 2000 and
12 Filed it a Day later on May 24th, 2000, But that Is not the Issue In The
13 Instant case, Petitioner's writ of Habeas corpus was Stamped Received by
14 The Clerk of The Court on August 20th, 2020 with the one-year time line
15 The Supreme Court said in "*Zell's V. State* 2012 Nev. UnPub. Lexis 1390, Also had
16 It not been for Mr. Parris with-holding critical Information from me that he never
17 admitted to the court on August 20th, 2019 when Mr. Rose was not Present In
18 the court room and Mr. Parris taking over an hour of trying to mentally
19 Coercion me in the back holding tank, ALSO based on the wrong Information
20 he sent me regarding my Eligibility for Parole which I found out is not true and
21 had I known both of these things from Counsel's UnProfessional errors, Petitioner
22 would Not Plead guilty and the results of the proceedings would have been
23 different. Petitioner's PSI had several Impalpable or highly suspect evidence
24 in it like the Part saying a weapon was used and that clearly was not the
25 case, even the Memo that was from "Dr. Nicholas Kwangsoo HAN," confirming that the
26 Alleged Injury came from Her Farring Not A Knife, Also the PSI said I had three
27 Felonies at which The State had committed Prosecution misconduct by Filing the

1 Notice of intent to a Habitual Criminal when in fact I only have one Felony because
2 one was dismissed with a honorable discharge, and the other one was Pleaded down
3 to a misdemeanor in 2006, Now if Mr. Parris did do his ^{Due-}~~Over~~ diligence and
4 Investigated into my criminal history like I tried to tell him that I had one felony
5 Not three, And the only way I found this out is when I wrote to the "Rick Warner
6 Court clerk," and they sent me a copy of my guilty plea from 2006. Petitioner also
7 Claims that the "Structural Errors that Happened when the Public Defender's office
8 represented the Alleged with (Martinez) And instead of Mr. Wood's doing his job and
9 checking for a conflict check, He ignored his duty and kept on representing me for
10 14 months through Preliminary Hearing and Pretrial writ of habeas corpus and
11 Petitioner is Entitled to conflict free representation under the Sixth Amendment; and
12 The Supreme Court has stated when that happens Automatic Reversal is Required "Necken V.
13 United States; 527 U.S. 1, 8 (1999). Petition also states it is a Abuse of Discretion when
14 It sentenced Petitioner on a PSI that he never saw; And even Mr. Parris. He was not
15 Counsel when PSI was prepared, and has not spoken to defendant about this
16 on "August 6th" In the court minutes, and the court sentenced Petitioner on that day
17 on "August 6th," and it clearly say's in the Plain language in NRS 176.153(1) that the
18 Prosecuting attorney, The Attorney for the defendant, The defendant and the court,
19 Not later than 14 calendar days before the defendant will be sentenced, But in the
20 Instant case that clearly did not happen since, Petitioner signed the guilty Plea on
21 August 6th, and was sentenced a few minutes later over Petitioner's objection, The PSI
22 Contained Impalpable or highly suspect evidence, The Nevada Supreme court has
23 Emphasized that any objections made by a defendant about His PSI "Must be resolved
24 Prior to sentencing", Not After; Blankenship 132 Nev. 500; 375 P.3d 407 (2016) A
25 Prisoner sentenced on the basis of assumptions concerning his criminal record which are
26 materially untrue, whether caused by carelessness or design, is inconsistent with due process
27 of law, and such a conviction cannot stand. Also The probation success probability
28 (PSP) score is wrong because I was not convicted of the charges that are in my PSI

1 like "First degree kidnapping and sex trafficking", so my score should be different
2 and those charges will be very prejudicial to petitioner through-out the NDOC.
3 "Vasquez V. State 2020 Nev. App. Unpub. Lexis 657;" Petitioner was not given the
4 14 days to review his PSI before he was sentenced on "August 6th" In violation of
5 NRS 176.153, Also on August 6th The State agreed to dismiss case C316167 After rendition
6 of sentence, consequently the state did not dismiss the other case as they stipulated
7 they would do in the Guilty Plea Agreement (GPA). So rather than them dismissing the
8 case number, they refiled all the facts of the case under "Pondering" and attached it
9 to the case for which defendant accepted the plea, Petitioner was not aware that
10 this was happening or if it is even legal until it was too late. "King V. Neven
11 2016 Nev. App. Lexis 299-971, "Ramussen V. State 2016 Nev. App. Unpub Lexis 15,
12 Relevant circumstances may include; whether the defendant received the sentence he
13 bargained for as a part of the plea; whether the defendant reserved certain issues for
14 appeal; whether the defendant indicated a desire to challenge his sentence, "Toston V.
15 State 127 Nev. 971 (2011). If the Petitioner demonstrates that his counsel failed to
16 perfect an appeal, then he had established ineffective assistance of counsel and was
17 not required to demonstrate anything further, "Mann V. State 118 Nev. 351, 46 P.3d 1228
18 (2002), Petitioner also states he did not know Mr. Parris failed to file a timely notice
19 of appeal until The Nevada Supreme Court sent me a docket sheet on November
20 25th, 2019, Counsel affirmative representation that a timely Post-Conviction Petition
21 will be filed, combined with Counsel's subsequent abandonment without timely filing
22 The Petition, Presents a circumstance where Counsel's actions or omissions can
23 constitute an Impediment External To The Defense To Establish cause for the delay
24 under NRS 34.726(1)(a) "Harris V. State; 2017 Nev. App. Lexis 1; 407 P.3d
25 348(2017), A petitioner's behalf; (2) This belief was objectively responsible, (3)
26 Counsel abandoned the petitioner without notice and failed to timely file the notice
27 of appeal; and (4) The petitioner filed his petition within a reasonable time after
28 found out Mr. Parris did not file the notice of appeal timely, Petitioner has not

Spoken or had any correspondence with Mr. Parri's since my last court date
On August 20, 2019, Counsel also said that the petitioner would be able to
bring up the fact that the Special Public Defenders office lost my cell phone that had
Exculpatory Evidence on it, and since no timely direct Appeal was filed, This proceeding
may represent my sole opportunity to have a court review my conviction or any
Post-Conviction Claims, Failure to consider petitioners Petition for writ of Habeas
Corpus will result in a fundamental miscarriage of Justice. Two Prong: (1) Counsel's
Performance was deficient; (A) Had Inadequate knowledge and understanding
of case history and facts as supported by hearing transcripts (B), Failed to
properly Investigate and convey information regarding material witness issued by
trial court for the state's key witness (C) Gave misleading and coercive advice
regarding Plea negotiation and strategy (2) Showing of actual prejudice; Due to
the deficient performance of counsel, Defendants plea colloquy was rendered Invalid
because trial Counsel had prior knowledge of material witness warrant and withheld
this key piece of information, while advising defendant to enter a plea, that then
makes the plea become Involuntary ³ not knowingly made. Trial Counsel
understood the implications of this information and chose to withhold this from
petitioner, Purposely Prejudging my proceedings and rendering his Counsel
Ineffective which entitles defendant to relief, so petitioner pray this court
dismisses the states motion and therefore grants petitioners writ of Habeas
Corpus.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF: Craig Rodgers

STATE OF NEVADA)
COUNTY OF CLARK) ss:

TO WHOM IT MAY CONCERN:

I, Craig Rodgers the undersigned, do hereby swear that all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and as to those, I believe them to be True and Correct. Signed under the penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 26th Day of JANVary, 2021.

BY: Craig Rodgers
Craig Rodgers #1221816
Post Office Box-208(SDCC)
Indian Springs, Nevada. 89070.
Affiant, In Propria Personam:

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 24th
day of January, 2021, I mailed a true and correct copy of the foregoing, "Reply to states response and motion to dismiss"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Steven D. Giverson
Clerk of the Court
220 Lewis Ave, 3rd Floor
LSS Vegas, NV, 89155 1160

Steve ~~W~~ Wolfson
District Attorney
220 Lewis Ave
LSS Vegas, NV 89155

CC:FILE

DATED: this 24th day of January, 2021.

Craig Rodgers # 1221916
/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 Petitioners reply to

States response and motion to Dismiss (petition for
(Title of Document)

filed in District Court Case number A-20-820408-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

1-26-21
Date

Craig Rodgers
Print Name

Title

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 26th day of January, 2021, I mailed a true and correct copy of the foregoing, "Reply to the State motion And motion to DISMISS writ of Habeas Corpus" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

Steven D. GRIFFINSON
clerk of the court
200 Lewis Ave 3rd Floor
Las Vegas, NV 89155

Steve Wolfson
District Attorney
200 Lewis Ave
Las Vegas, NV 89155

CC:FILE

DATED: this 26th day of January, 2021.

Craig Rodgers #1201866
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

NEVADA DEPARTMENT OF CORRECTIONS

EMERGENCY
GRIEVANCE FORM

NAME: CRAIG RODGERS I.D. NUMBER: 1221816

INSTITUTION: S.D.C.C UNIT: 12B-3V

GRIEVANT'S STATEMENT: yes i denied access to the courts by
the library being closed because i need to make
copies of legal work and send them out today
so i can make my deadline for my post-
conviction writ of Habeas corpus and the court
has deadlines for people to meet. and i have a constitutional
right to have access to the courts so according to the AR's
it should have other ways for us to have access to the law library

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Craig Rodgers DATE: 8-17-20 TIME: 12:25

RECEIVING STAFF SIGNATURE: B. T. [Signature] DATE: 8-17-20 TIME: 1300

SUPERVISOR COMMENT/ACTION TAKEN ON EMERGENCY GRIEVANCE: PER AR 740 THIS IS
NOT AN EMERGENCY. USE INFORMAL GRIEVANCE.

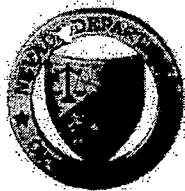
SUPERVISOR SIGNATURE: [Signature] MILLER TITLE: SGT DATE: 8-17-20 TIME: 1311

INMATE AGREES: _____ INMATE DISAGREES: ✓

INMATE SIGNATURE: [Signature] TIME: 12:26 DATE: 8-17-20

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FORMAL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.


Original: To inmate when complete, or attached to formal grievance
Canary: To Grievance Coordinator when complete
Pink: Inmate's initial receipt



Nevada Department of Corrections

Improper Grievance Memo

TO: RODGERS, CRAIG 0001221816

FROM: SDCC Grievance Coordinator 

DATE October 16, 2020

RE Improper Grievance # 20063108978

The attached grievance is being returned to you for the following reason(s):


This grievance may NOT proceed to the next level Per AR740.03,5 due to the following:

- ☐ Non-grievable issue.
 - ☐ State and federal court decision.
 - ☐ State, federal and local laws and regulations.
 - ☐ Parole Board decision.
 - ☐ Lacks standing.
- ☐ Untimely submission.
- ☐ Abuse of Inmate Grievance Procedure.
 - ☐ Any language, writing or illustration deemed to be obscene, profane or derogatory.
 - ☐ A threat of serious bodily injury to a specific individual.
 - ☐ Specific claims or incidents previously filed by the same inmate.
 - ☐ More than one (1) grievance per week, Monday through Sunday.
 - ☐ More than two (2) unfounded, frivolous or vexatious grievances per month.

After correcting the deficiencies(s) listed below; you may re-submit your grievance at the same level.

- ☐ The grievance contains more than one (1) appropriate issue. Only 1 issue is allowed per grievance.
- ☒ No factual harm/loss noted **and/ or** no remedy requested. Resubmit with the following: new Informal Grievance with your statement and remedy and attach all previously submitted documentation related to this grievance log number.
- ☐ Other; specify:

Failure to re-submit the grievance through the prescribed timeframe shall constitute abandonment.


Witness Signature


Date


Inmate Signature


Date

cc: Original - Inmate
Copy - Grievance File

DOC-3098 (01/17)

Log Number

20063108978

NEVADA DEPARTMENT OF CORRECTIONS INFORMAL GRIEVANCE

NAME: CRAIG Rodgers I.D. NUMBER: 1221816INSTITUTION: SDCC UNIT: 1213-3V

GRIEVANT'S STATEMENT: Yes i just filled out a Emergency form
about re being denied access to the courts by the Law Library
being shut down for no reason when i need to make copies of my
past conviction for a writ of Habeas corpus that need to be
sent out today so i can meet the deadline and this is the

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Craig Rodgers DATE: 8-17-20 TIME: 2:10pmGRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 11/21/20 TIME: 652GRIEVANCE RESPONSE: See doc 3098CASEWORKER SIGNATURE: [Signature] DATE: 1/6/21

☐ GRIEVANCE UPHELD ☐ GRIEVANCE DENIED ☐ ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: [Signature] DATE: 11/21/20

☒ INMATE AGREES ☐ INMATE DISAGREES

INMATE SIGNATURE: Craig Rodgers DATE: 1-6-21

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FIRST LEVEL GRIEVANCE MAY
BE PURSUED IN THE EVENT THE INMATE DISAGREES.

Original: To inmate when complete, or attached to formal grievance
 Canary: To Grievance Coordinator
 Pink: Inmate's receipt when formal grievance filed
 Gold: Inmate's initial receipt

Received
SDCC
OCT 16 2020
AMP

NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Craig Rodgers I.D. NUMBER: 1221816
INSTITUTION: SDCC UNIT #: 2B-3V
GRIEVANCE #: _____ GRIEVANCE LEVEL: _____

GRIEVANT'S STATEMENT CONTINUATION: PG. 1 OF 1

third time that I have been denied access to the courts
and I have a constitutional right to have access to the
Law Library so they are suppose to have
another way for us to make copies and
send out legal mail so we can make our
deadlines

Original: Attached to Grievance
Pink: Inmate's Copy

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS
INMATE ACCOUNT TRANSACTION
REQUEST

Date: August 17, 2000

NC 2488990

To: Inmate services

I hereby authorize my account to be charged in the amount
of \$ 30.75 (Thirty and 75/100 Dollars)

Please pay to DOC

Signature [Signature]

Print name Craig Rodgers

ID No. 221916

Institution DOC

Approved by _____

Transfer <input checked="" type="checkbox"/>	Purchase Order <input type="checkbox"/>	Postage <input checked="" type="checkbox"/>	Other <input type="checkbox"/>
--	---	---	--------------------------------

White
Canary
Pink

Inmate Services
Institution Copy
Inmate

DOC 509 (Rev. 2/06)

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS
INMATE ACCOUNT TRANSACTION
REQUEST

Date: 8-19-20

NR 2338595

To: Inmate services

I hereby authorize my account to be charged in the amount
of \$ 32.00 (Thirty Two ⁰⁰/₁₀₀ Dollars).

Please pay to: N.D.C.

Signature: *am*

Print name: Rodgers, Craig

ID No. 1221816

Institution: S.D.C.C.

Approved by: _____

Transfer	Purchase Order	Postage	Other
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Legal</u> <u>Copies</u>

White
Canary
Pink

Inmate Services
Institution Copy
Inmate

DOC 509 (Rev. 2/06)

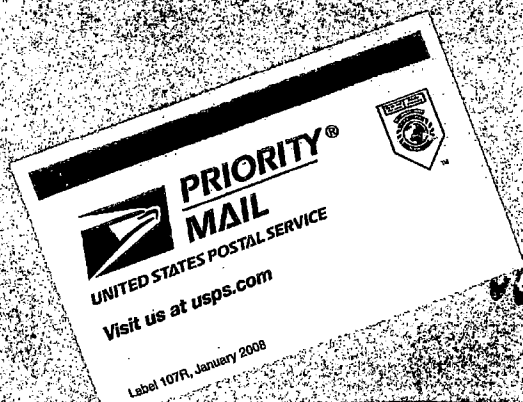
SOUTHERN DESERT
CORRECTION CENTER

AUG 19 1969

OUTGOING MAIL

DAVE RODGERS
1021316
P.O. Box 208
Hillman, SP 89070

STEVEN B. GATIERSON
CLERK OF THE COURT
200 Lewis Ave, 3rd Floor
LAS VEGAS, NV 89155-1160



CONFIDENTIAL
188

SOUTHERN DESERT
CORRECTIONAL CENTER
AUG 18 2020
OUTGOING MAIL

SOUTHERN DESERT
CORRECTIONAL CENTER
AUG 19 2020
OUTGOING MAIL

NEVADA DEPARTMENT OF CORRECTIONS

EMERGENCY
GRIEVANCE FORM

NAME: Craig Rodgers I.D. NUMBER: 1221816

INSTITUTION: S.B.C.C UNIT: 11-B-1-U

GRIEVANT'S STATEMENT: yes im on the call out list for Law Library
research so i can sign on a notice of appeal and also mail out some legal
mail papers also, and PER AR. 722 inmate Legal access says the warden will
insure that inmates have access to the law library, inmate library assistants, and also
legal mailings and i have to make copies to send out a notice of appeal today
so this is another example of me and other inmates being denied
access to the Courts which is clearly a State and federal
violation of my constitutional rights.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Craig Rodgers DATE: 7-6-20 TIME: 9:05am

RECEIVING STAFF SIGNATURE: [Signature] DATE: 7-6-20 TIME: 9:10am

SUPERVISOR COMMENT/ACTION TAKEN ON EMERGENCY GRIEVANCE: NOT A N

EMERGENCY FOR AR 740

SUPERVISOR SIGNATURE: [Signature] TITLE: [Signature] DATE: 07/06/20 TIME: 0935

INMATE AGREES: _____ INMATE DISAGREES: ✓

INMATE SIGNATURE: [Signature] TIME: 10:15 DATE: 7-6-20

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FORMAL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

Original: To inmate when complete, or attached to formal grievance
Copy: To Grievance Coordinator when complete
Pink: Inmate's initial receipt

**NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM**

NAME: Craig Rodgers I.D. NUMBER: 1221216

INSTITUTION: SDCC UNIT #: 4C-20

GRIEVANCE #: 20063097294 GRIEVANCE LEVEL: FIRST LEVEL

GRIEVANT'S STATEMENT CONTINUATION: PG. _____ OF _____

and handle our important legal matters
and since i have a constitutional right to have
access to the court and since it's NO AR
That says anything about limiting or not
letting people go to the law library at all
and that's not fair at all since people have
court deadlines to meet. This matter could have
been handled if you make sure everyone make
in to their law library appointment because
they are important and once again the law library
was not closed nor was the institution was
not on lockdown only visit 6 was not
allowed to do anything.

Original: _____
Pink: _____
Attached to Grievance
Inmate's Copy

See [unclear]

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Craig Rodgers	1221816	6C-24	1-8-2020

4.) REQUEST FORM TO: (CHECK BOX)

<input type="checkbox"/> CASEWORKER	<input type="checkbox"/> MEDICAL	<input type="checkbox"/> MENTAL HEALTH	<input type="checkbox"/> CANTEEN
<input type="checkbox"/> EDUCATION	<input type="checkbox"/> VISITING	<input checked="" type="checkbox"/> LAW LIBRARY	<input type="checkbox"/> DENTAL
<input type="checkbox"/> LAUNDRY	<input type="checkbox"/> PROPERTY ROOM	<input type="checkbox"/> SHIFT COMMAND	<input type="checkbox"/> OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: LAW clerk

6.) REQUEST: (PRINT BELOW) yes i have filled out about 3 different
rites for the Law Library and have not got a responses back
and i really need to get there so i can start my appeal so can i
please come to the library since i do have a right to have access
to the courts or i will file a grievance & a Lawsuit!!
So i would like to go on 1-13-2020 at 8am and i would like
to go on 1-15-2020 at 130pm

7.) INMATE SIGNATURE Craig Rodgers DOC # 1221816

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

Scheduled 1/15/2020

[Handwritten scribble]

10.) RESPONDING STAFF SIGNATURE *[Signature]* DATE 1/15/2020

Rec'd 1-9-2020 @12:00 pm

Nevada Supreme Court Docket Sheet

Docket: 79714

RODGERS (CRAIG) VS. STATE

Page 1

CRAIG ALLEN RODGERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Case No. 79714

Consolidated with:

Counsel

Law Offices of John P. Parris, Las Vegas, NV \ John P. Parris, as counsel for Appellant, Craig Allen Rodgers
Attorney General/Carson City, Carson City, NV \ Aaron D. Ford, as counsel for Respondent, The State of Nevada
Clark County District Attorney, Las Vegas, NV \ Alexander G. Chen, as counsel for Respondent, The State of Nevada

Case Information

Panel: SNP19 **Panel Members:** Hardesty/Stiglich/Silver
Disqualifications: Elissa Cadish
Case Status: Disposition Filed
Category: Criminal Appeal **Type:** Other **Subtype:** Direct
Submitted: **Date Submitted:**
Oral Argument:
Sett. Notice Issued: **Sett. Judge:** **Sett. Status:**
Related Court Cases:

District Court Case Information

Case Number: C314359
Case Title: STATE VS. CRAIG ALLEN RODGERS
Judicial District: Eighth **Division:** **County:** Clark Co.
Sitting Judge: Susan Johnson
Replaced By:
Notice of Appeal Filed: 09/24/19 **Appeal** **Judgment Appealed From Filed:** 08/23/19

Docket Entries

Date	Docket Entries	
10/01/19	Appeal Filing Fee waived. Criminal. (SC)	
10/01/19	Filed Notice of Appeal. Appeal docketed in the Supreme Court this day. (Docketing statement and Notice of Briefing Schedule mailed to counsel for appellant.) (SC)	19-040724
10/08/19	Filed Order to Show Cause. Appellant shall have 21 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. Respondent may file any reply within 14 days. Briefing is suspended. (SC).	19-041544
10/08/19	Justice Elissa Cadish disqualified from participation in this matter. Disqualification Reason: Sat in District Court Proceedings. (SC)	
10/30/19	Filed Appellant's Motion for Extension of Time to File Response to Order to Show Cause. (SC)	19-044724

Monday, November 25, 2019 03:38 PM

Nevada Supreme Court Docket Sheet

Docket: 79714

RODGERS (CRAIG) VS. STATE

Page 2

10/30/19	Filed Appellant's Response to Order to Show Cause. (SC)	19-044725
11/25/19	Filed Order Dismissing Appeal. "ORDERS this appeal DISMISSED." fn1[The motion for an extension of time to file a response to this court's order to show cause is granted. The response was filed on October 30, 2019.] SNP19-JH/LS/AS (SC)	19-048095

Monday, November 25, 2019 03:38 PM

11/21/19
Date

Clerk of the SUPREME COURT
CAPITOL COMPLEX
CARSON CITY, NV. 89702

RE: Request for Records/Court Case Documents

Case No.: 79719

Dept No.: _____

Dear Clerk:

The purpose of this letter is to request that I be provided with copies of the following: (check all that apply)

- ☒ Case History
☐ Charging Document (Information or Indictment)
☐ Court Minutes - Complete
☐ Court Minutes for the following dates: ____/____/____;
____/____/____
☐ Court Order(s) for the following dates: ____/____/____;
____/____/____
☐ Guilty Plea Agreement
☒ Judgment of Conviction
☒ Other information requested:

A COPY OF THE DOCKET ON STATEMENT
TO SHOW CAUSE

Respectfully submitted,

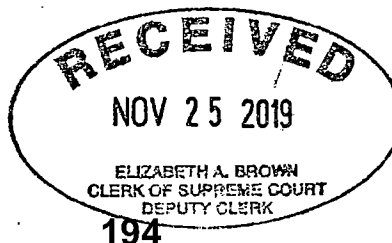
x Craig Rodgers
CRAIG RODGERS

Inmate Name / NDOC # 1221816

High Desert State Prison

Post Office Box 650

Indian Springs, Nevada 89070



DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 25, 2019

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

July 25, 2019 09:30 AM All Pending Motions

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

COURT CLERK: Chambers, Jill

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Craig Rodgers	Defendant
John P. Parris	Attorney for Defendant
State of Nevada	Plaintiff
Steven Rose	Attorney for Plaintiff

JOURNAL ENTRIES

DEFT'S MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE
COUNSEL...CALENDAR CALL

Upon inquiry of the Court, the Deft. stated that his attorney has been unavailable but that he finally met with Mr. Parris the previous day. Mr. Parris confirmed that he spoke to the Deft. and had documents to present to him but was not clear if he had any further issues. COURT ORDERED, MATTER TRAILED to allow Mr. Parris to speak to his client.

MATTER RECALLED

Mr. Parris stated that he was able to address one of the Deft's concerns and gave an update on negotiations which did not resolve the matter. The Deft. requested a hearing outside the presence of the State.

MATTER TRAILED

MATTER RECALLED

Upon the Court's inquiry, the Deft. argued as to his motion to dismiss counsel. Mr. Parris argued. COURT ORDERED, MOTION DENIED.

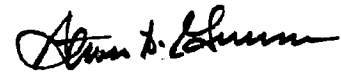
Colloquy regarding trial date and schedule. Mr. Parris stated that he had an evidentiary hearing on 8/2/19 and would be out of the jurisdiction 8/9/19. Court SET new trial date and gave the start time for each day as follows:

8/5/19 8:30 AM;
8/6/19 1:00 PM;
8/7/19 9:30 AM;
8/8/19 10:30 AM;

Based upon the case that I sent you, Williams v. State Dept. of Corrections, you are eligible to apply good time credits towards your eligibility for parole. In that case, the defendant was convicted of a DUI resulting in death after she struck and killed six (6) teenagers with her vehicle while driving under the influence. She was sentenced to a minimum of thirty-six (36) months and a maximum of ninety-six (96) months for each of the six counts and each sentence was to run consecutively. The Nevada Supreme Court held that that defendant was eligible to apply good time credits to the front end of her sentence because NRS 209.4465 allows for application of good time credits towards one's eligibility for parole so long as the defendant was not sentenced under a statute that requires a minimum time to be served before parole eligibility. As evidenced in Williams and NRS 484C.410, the DUI laws do not specify a specific amount of time that a defendant must serve prior to becoming eligible for parole. Accordingly, just as in Williams, you will be eligible to apply your good time credits toward your eligibility for parole, thus lowering the minimum term of your sentence.

Under NRS 213.120, which determines a defendant's eligibility for parole, a prisoner becomes eligible for parole when the minimum term of their sentence has been completed. Thus, when applying good time credits towards one's eligibility for parole, you are in effect applying the good time credits towards the minimum term of the sentence. NRS 209.4465 allows for the accumulation of 20 days' good time credit for every 30 days served.

Applying the above to your case, for every thirty (30) days that you serve in the Nevada Department of Corrections, you will receive credit for twenty (20) days off of the minimum term of your sentence. Thus, after having served twelve (12) months, you will have received credit for twenty (20) months, leaving just four (4) months remaining on the twenty-four (24) month minimum term of your sentence.



CLERK OF THE COURT

1 **NOTC**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **CHRISTOPHER S. HAMNER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #11390**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

17PS

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C314359

12 CRAIG RODGERS, aka,
13 Craig Allen Rodgers, #1680324

DEPT NO: VI

14 Defendant.

15 NOTICE OF INTENT TO SEEK PUNISHMENT AS
16 A HABITUAL CRIMINAL

17 TO: CRAIG RODGERS, aka, Craig Allen Rodgers, Defendant; and

18 TO: DEPUTY PUBLIC DEFENDER, Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant CRAIG RODGERS,
21 aka, Craig Allen Rodgers, as a habitual criminal in the event of a felony conviction in the
22 above-entitled action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant CRAIG RODGERS, aka, Craig Allen
25 Rodgers as a habitual criminal based upon the following felony convictions, to-wit:

26 I. That on or about 2001, the Defendant was convicted in the State of
Nevada, for the crime of Possession of Controlled Substance (felony).

///

1 2. That on or about 2006, the Defendant was convicted in the State of
2 Oklahoma, for the crime of Transport Prostitution (felony).

3 3. That on or about 2012, the Defendant was convicted in the State of
4 Oklahoma, for the crime of Federal Interstate Transportation of a Person(s) to Engage in
5 Prostitution or Illegal Sexual Activity (felony).

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

9 BY /s/ CHRISTOPHER S. HAMNER
10 CHRISTOPHER S. HAMNER
11 Chief Deputy District Attorney
12 Nevada Bar #11390

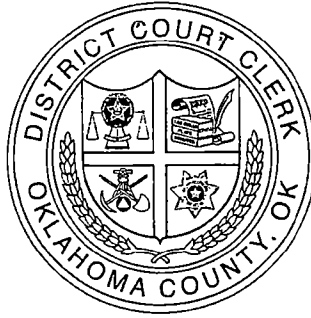
13 CERTIFICATE OF SERVICE

14 I certify that on the 28th day of November, 2016, I mailed a copy of the foregoing
15 Notice to:

16 DEPUTY PUBLIC DEFENDER
17 EMAIL: pdclerk@clarkcountynv.gov

18
19 BY /s/ J. MOSLEY
20 Secretary for the District Attorney's Office

21
22
23
24
25
26
27
28 jm/SVU



RICK WARREN COURT CLERK
OKLAHOMA COUNTY

September 22, 2020

CRAIG RODGERS #1221816
PO BOX 208
INDIAN SPRINGS, NV 89070

**RE: REQUEST FOR COPY OF
CF-2006-4525**

Pursuant to your request for copy by letter received on, September 21, 2020, we are enclosing the copies requested.

Very truly yours,

RICK WARREN, COURT CLERK

RW/KC
1157



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA
OKLAHOMA COUNTY, OKLA.

STATE OF OKLAHOMA

OCT 05 2006

Plaintiff,

PATRICIA PRESLEY, COURT CLERK

Case Number CF-06-4525

vs.

by Deputy

Case Number CM- _____

Craig Allen Rogers
Defendant.

Case Number CM- _____

62211213786

Case Number CM- _____

Defendant's Social Security Number

Case Number CM- _____

JUDGMENT AND SENTENCE
and SUMMARY OF FACTS ON PLEA OF GUILTY
MISDEMEANOR

1. Is the name just read to you your true name? Yes (Defendant initials yes or no) YES + or NO _____
2. Is your age 25 years; and is your date of birth 3-27-81? YES _____ or NO _____
3. Is Chris Skar your lawyer? YES _____ or NO +
4. Are you taking any kind of medication?
 - a. If yes, what kind and when did you take it? YES _____ or NO +
 - b. If yes, does this medication affect your judgment now? YES _____ or NO +
5. Have you been prescribed any medication that you should be taking, but that you are not taking?
 - a. If yes, what kind and when should you have taken it? YES _____ or NO +
 - b. If yes, does not taking this medication affect your judgment now? YES _____ or NO +
6. Have you ever been seen by a doctor or confined in a hospital for mental illness?
If yes, explain: _____ YES _____ or NO +
7. Counselor, do you have any reason to believe your client is not mentally competent to appreciate and understand the nature, purpose and consequences of this proceeding and to assist you in presenting any defense that may exist to any charge? (Lawyer initials) YES _____ or NO +
8. Counselor, do you have any reason to believe your client was not mentally competent to appreciate and understand the nature, purpose and consequences of his or her acts at the time they were committed and out of which the charges in the Information arose? YES _____ or NO +
9. Do you understand you are charged with: (for more than six charges use Plea of Guilty, Addendum 1)
a. Ct. #3 - Aiding & Abetting Prostitution - 2105 \$1029.4
b. Only charged in misd count.
c. _____
d. _____
e. _____
f. _____
and have you and your lawyer had a copy of the charge(s)? Yes (Defendant initials) YES + or NO _____
10. Do you understand that the range of punishment provided for the above crime(s) (is)(are) as follows:
 - a. Minimum of 0 to a maximum of 1 (and)(or) a fine of \$ 0-1,000 YES + or NO _____
 - b. Minimum of _____ to a maximum of _____ (and)(or) a fine of \$ _____ YES _____ or NO _____
 - c. Minimum of _____ to a maximum of _____ (and)(or) a fine of \$ _____ YES _____ or NO _____
 - d. Minimum of _____ to a maximum of _____ (and)(or) a fine of \$ _____ YES _____ or NO _____
 - e. Minimum of _____ to a maximum of _____ (and)(or) a fine of \$ _____ YES _____ or NO _____
 - f. Minimum of _____ to a maximum of _____ (and)(or) a fine of \$ _____ YES _____ or NO _____

11. Do you understand that if you plead guilty, you can be sentenced to a term of imprisonment within the total of the above range(s) of punishment? YES + or NO _____
12. Do you understand that in addition to that punishment, a Victim Compensation Assessment will be imposed for each charge? YES + or NO _____
13. Do you understand that you are entitled to a speedy jury trial on the charge(s), to confront all witnesses who will testify against you at the trial(s), to remain silent, and to have your witnesses ordered to Court even at the expense of the State? YES + or NO _____
14. Do you understand that the law presumes you are not guilty of the crime(s) charged in the Information, or of any lesser-included offense(s)? YES + or NO _____
15. Do you understand that a plea of not guilty requires the State to prove each and every material allegation of the Information beyond a reasonable doubt to a jury, or to the Court if a jury is waived, and if the State can not do this, you will not be convicted? YES + or NO _____
16. Do you understand that you have the right to keep a plea of not guilty, and in doing so you keep all these rights? YES + or NO _____
17. Do you understand that by entering a plea of guilty you give up all these rights? YES + or NO _____
18. Have you talked over the charge(s) with your lawyer, do you understand your rights, and have you had your lawyer's advice in this matter? YES + or NO +
19. Has your lawyer served you well? YES + or NO +
20. Do you want a jury trial? YES + or NO +
21. You stand now on a plea of not guilty. Should you change your plea to guilty, do you understand there has been a plea agreement? YES + or NO _____

What is your understanding of the plea agreement? Ch. #3 - 2 yrs. delayed Sentence, \$200 VCA, \$200 fine, 80 hours Com. Service, Probation, Supervision per DOC. Comm. serv. to be completed w/ Alliance Against Prostitution.

22. Do you want to enter your plea(s) now and be sentenced (now) (at a later date)? YES + or NO _____
23. What (is)(are) your plea(s) to the charge(s), (and to each of them)? (handwriting of Defendant only) + Guilty YES + or NO _____
24. Do you plead guilty because you did the acts charged? YES + or NO _____
25. Do you plead guilty of your own free will and without any coercion or compulsion of any kind? YES + or NO _____
26. Have you been forced, abused, mistreated, threatened, or promised anything by anyone to have you enter your plea(s)? YES _____ or NO +
27. Do you or your lawyer have anything more to say or do you know of any legal reason why you should not be sentenced now? YES _____ or NO +

+ C.N.
(Defendant initials)
CS
(Lawyer initials)

28. THE COURT FINDS:

- A. The Defendant is mentally competent to understand the nature, purpose and consequences of this proceeding, and further, the Defendant was mentally competent to appreciate and understand the acts he or she committed on or about the date alleged in the Information, and to realize the nature, purpose and consequences of those acts at the time they were committed.
- B. The plea agreement is fair and just to the parties and should be concurred in by the Court.
- C. The plea(s) of guilty (is)(are) knowingly and voluntarily entered.

DEFERRED SENTENCING

29. THE COURT ORDERS:

- A. The plea(s) of guilty (is)(are) accepted by the Court.
- B. The sentencing date is deferred until 4th of Oct. 2008 at 9:00 a.m.
- C. You are to pay the following to the Oklahoma County Court Clerk:
1. A fine in the amount of \$ 200 on or before _____.
 2. The court costs in the approximate amount of \$ ✓ on or before _____.
 3. The Victim Compensation Assessment in the sum of \$ 200 on or before _____.
 4. The court-appointed attorney fee amount of \$ N/A on or before _____.
 5. A laboratory fee for the benefit of the _____
in the amount of \$ _____ on or before _____.
- D. You are to pay restitution according to the restitution schedule.
- E. You are to pay \$ _____ to the Department of Mental Health on or before _____.

SUSPENDED SENTENCE or SUSPENDED AS TO PART

29. THE COURT ORDERS:

- A. The plea(s) of guilty (is)(are) accepted by the Court.
- B. You are sentenced to confinement under the supervision of the Oklahoma County Sheriff for a term as follows:
- a. _____ d. _____
b. _____ e. _____
c. _____ f. _____
- either, to be all suspended; (Defendant Initials) **ALL SUSPENDED** YES _____ or NO _____
or, to be suspended **SUSPENDED AS TO PART** YES _____ or NO _____
except as to the first _____ (months)(years) of the term(s) during which time you are to be held in the custody of
the Oklahoma County Sheriff, the remainder of the sentence(s) to be suspended under the terms set forth in the
Probation Guidelines found below in paragraph 30.
- C. These sentences are to run (concurrently)(consecutively). **NOT APPLICABLE** YES _____ or NO _____
- D. You are to pay the following to the Oklahoma County Court Clerk:
1. A fine in the amount of \$ _____ on or before _____.
 2. The court costs in the approximate amount of \$ _____ on or before _____.
 3. The Victim Compensation Assessment in the sum of \$ _____ on or before _____.
 4. The court-appointed attorney fee amount of \$ _____ on or before _____.
 5. A laboratory fee for the benefit of the _____
in the amount of \$ _____ on or before _____.
- E. You are to pay restitution according to the restitution schedule.
- F. You are to pay \$ _____ to the Department of Mental Health on or before _____.

TIME TO SERVE

29. THE COURT ORDERS:

- A. The plea(s) of guilty (is)(are) accepted by the Court.
- B. You are sentenced to confinement under the supervision of the Oklahoma County Sheriff for a term as follows:
- a. _____ d. _____
b. _____ e. _____
c. _____ f. _____
- C. These sentences are to run (concurrently)(consecutively). **NOT APPLICABLE** YES _____ or NO _____

D. You are to pay the following to the Oklahoma County Court Clerk:

- 1) A fine in the amount of \$ _____ on or before _____.
- 2) The court costs in the approximate amount of \$ _____ on or before _____.
- 3) The Victim Compensation Assessment in the sum of \$ _____ on or before _____.
- 4) The court-appointed attorney fee amount \$ _____ on or before _____.
- 5) A laboratory fee for the benefit of _____
in the amount of \$ _____ on or before _____.

E. You are to pay restitution according to the restitution schedule.

F. You are to pay \$ _____ to the Department of Mental Health on or before _____.

G. Court Fund Assessment (CTFD) \$ _____.

AFFIDAVIT

ON THE 10 DAY OF July, 2006, in OKLAHOMA COUNTY, OKLAHOMA, I committed the following act (s): acted as a known prostitute by

meeting her to a hotel room to
perform prostitution.

X Craig Rodgley

THE ABOVE STATEMENT OF THE CRIME IS IN MY OWN HANDWRITING OR WRITTEN BY MY ATTORNEY AND APPROVED BY ME. Initials X CR

NOTICE OF RIGHT TO APPEAL

- 30) To appeal from a conviction on your plea of guilty you must file a written Application to Withdraw Plea of Guilty within ten (10) days from today. You must set forth in detail the grounds for your withdrawal and request an evidentiary hearing in the trial court. The trial court must hold a hearing and rule upon your application within thirty (30) days from the date it is filed. If the trial court denies your Application you have ninety (90) days from the date of denial to file a Petition for Writ of Certiorari to the Court of Criminal Appeals to appeal the trial court's decision. If you are indigent, these appeals can be prosecuted at public expense, and you can have an attorney appointed to represent you.

Do you understand your right to appeal?

YES 6 NO _____

31) Have you fully understood the questions that have been asked?

YES + NO _____

32) Were your answers freely and voluntarily given?

YES + NO _____

DONE IN OPEN COURT this 5 day of Oct., 2006. This document is to be filed in the case.

[Signature]
Assistant District Attorney

[Signature]
Judge of the District Court

[Signature]
Attorney for the Defendant Chris Sloan

[Signature]
Court Reporter Present

[Signature]
Deputy Court Clerk

Having been previously sworn, I the Defendant whose signature appears below, make the following statements under oath: 1) My Attorney and I have read this Judgment and Sentence and Summary of Facts on the Plea of Guilty. 2) It is a true statement of the questions asked and of my answers to them. 3) I approve this document and I do not desire to change it or add anything to it. 4) I understand that that I may be prosecuted for perjury if I have made false statements to this Court.

X Craig Rodgley
Defendant

1 Case No. C175580

2 Dept. No. VI

FILED

AUG 7 10 40 AM '02

3 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

4 IN AND FOR THE COUNTY OF CLARK
5 CLERK

6 * * *

7 THE STATE OF NEVADA,

8 Plaintiff

9 vs.

10 PETITION

11 RODGERS, Craig Allen /

12 (NRS 453)

13 To the Honorable Bonaventure, of the Eighth Judicial District Court
14 of the State of Nevada, in and for the County of Clark.

15 The undersigned Operations Supervisor for the State of Nevada,
16 Division of Parole and Probation, represents that, pursuant to an order
17 entered by this Court on the 1st day of August, 2002, and with the consent and
18 election of the defendant, the above-named proceedings were suspended and the
19 defendant placed on probation or otherwise supervised by a state-approved
20 facility upon certain terms and conditions as more fully identified within
21 said order.

22 The undersigned would represent that said defendant has
23 satisfactorily completed all of the terms and conditions required while under
24 supervision in the State of Nevada.

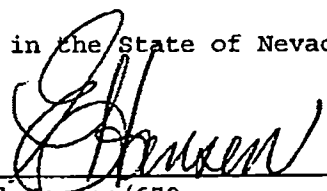
25 Based upon same, the undersigned would petition this Court to enter
26 an order dismissing the proceedings against the defendant, discharging the
27 defendant from any further obligations therein and, where appropriate, setting
28 aside any conviction entered by the Court.

RECEIVED

AUG 7 2002

COUNTY CLERK

1 Dated this 1st day of August, 2002. The undersigned represents that
2 said defendant has satisfactorily complied with all of the terms and
3 conditions required while under supervision in the State of Nevada.

4
5 
6 Earl Hansen/679
7 Operations Supervisor
8 Division of Parole and Probation
9 215 E. Bonanza Road, Las Vegas, Nevada
10 702-486-5109

11
12 ORDER OF DISMISSAL AND DISCHARGE AND
13 SETTING ASIDE OF CONVICTION

14 GOOD CAUSE APPEARING,

15 IT IS HEREBY ORDERED that the above-named proceedings be dismissed,
16 the defendant discharged from any further obligations therein and any
17 convictions entered herein set aside.

18 Dated this 6 day of August, 2000.

19 
20 Joseph T. Bonaventure, District Judge
21
22
23
24

25 EH/jlg
26
27
28

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search](#) [Refine Search](#) [Close](#)

Location : District Courts [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE NO. 01C175580

The State of Nevada vs Craig A Rodgers

§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
Date Filed: **05/24/2001**
Location: **Department 3**
Cross-Reference Case Number: **C175580**
Defendant's Scope ID #: **1680324**
Lower Court Case # Root: **01F06561**
Lower Court Case Number: **01F06561X**

RELATED CASE INFORMATION

Related Cases

01F06561X (Bind Over Related Case)

PARTY INFORMATION

Defendant Rodgers, Craig A

DOB: 03/27/1981

Lead Attorneys
James L. Buchanan II
Retained
7023829103(W)

Plaintiff State of Nevada

Stewart L. Bell
702-455-4277(W)

CHARGE INFORMATION

Charges: Rodgers, Craig A

1. UNLAWFUL POSSESSION OF A CONTROLLED
SUBSTANCE NOT FOR PURPOSE OF SALE.

Statute
453.336

Level
Felony

Date
01/01/1900

EVENTS & ORDERS OF THE COURT

07/31/2001 **Sentencing (8:30 AM) ()**
SENTENCING Court Clerk: Nora Pena Reporter/Recorder: Tom Mercer Heard By: Joseph Bonaventure

Minutes

07/31/2001 8:30 AM

- Roy Stuart of Parole and Probation (P&P) present. By virtue of Defendant's plea(s) of guilty and previous ORDER of this Court, DEFT. RODGERS ADJUDGED GUILTY of POSSESSION OF CONTROLLED SUBSTANCE (F). Matter submitted by Ms. Benedict. Argument by Mr. Cox. DEFT. RODGERS having PLED GUILTY to POSSESSION OF CONTROLLED SUBSTANCE (F), COURT ORDERED, pursuant to NRS 453.3363, these proceedings are SUSPENDED and in addition to the \$25.00 Administrative Assessment fee and \$60.00 Drug Analysis fee, Deft. is placed on PROBATION for an indeterminate period not to exceed ONE (1) YEAR. CONDITIONS: 1. Search clause. 2. Enter and complete a mandatory substance abuse counseling program. 3. Complete an adult education program as deemed necessary by the Division of Parole and Probation. 4. Complete 8 HOURS of COMMUNITY SERVICE work each month of probation unless employed full-time. 5. Abstain from the use, possession, or control of any alcoholic beverages during the term of probation. 6. Submit to random urinalysis as deemed appropriate by the Division of Parole and Probation. CASE CLOSED

Parties Present

[Return to Register of Actions](#)

FILED

2002 MAY 29 AM 11:11

1 CASE NO. C175580

2 DEPARTMENT NO. 7

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 COUNTY OF CLARK, STATE OF NEVADA

CLERK

5 -ooo-

6 STATE OF NEVADA,

7 Plaintiff,

8 vs.

10 CRAIG RODGERS,

11 Defendant.

ORIGINAL

CASE NO. 01F06561X

12

13

14 REPORTER'S TRANSCRIPT15 OF16 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING17 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI
18 JUSTICE OF THE PEACE

19 MONDAY, MAY 21, 2001

20

21 APPEARANCES:

22 For the State: THOMAS CARROLL, ESQ.
Deputy District Attorney23 For the Defendant: BRYAN COX, ESQ.
Deputy Public Defender

24

25 Reported by: Loree Gallegos, CCR #426

LOREE GALLEGOS, CCR 426
JUSTICE COURT DEPARTMENT 7, 455-4581

CE12

RECEIVED
MAY 29 2002
COUNTY CLERK

1 LAS VEGAS, NEVADA, MONDAY, MAY 21, 2001

2 8:00 A.M.

3

4

* * * * *

5 THE COURT: Craig Rodgers, 01F06561X.

6 MR. COX: Your Honor, that case has also
7 been resolved. He does qualify.

8 THE COURT: Sir, you do qualify for the
9 services of the public defender. I will appoint the
10 public defender to represent you.

11 What's the deal?

12 MR. COX: Your Honor, today he will be
13 unconditionally waiving his preliminary hearing. In
14 district court he will be pleading guilty to the
15 information reflecting the charge of possession of
16 controlled substance. The State will not be opposing
17 treatment under 453.3363 and will also not oppose a
18 term of probation not to exceed one year.

19 THE COURT: Do you understand the deal,
20 Mr. Rodgers? It's fairly straightforward.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: You are going to unconditionally
23 waive your preliminary hearing to plead guilty to a
24 reduced charge of possession of controlled substance
25 in district court. The State won't oppose, once you

LOREE GALLEGOS, CCR 426
JUSTICE COURT DEPARTMENT 7, 455-4581

1 successfully complete your probationary period, if
2 you follow all the directions of the court you will
3 be allowed to withdraw your plea, the charge will be
4 dismissed and your record sealed, or they won't
5 oppose that happening. It will be the district court
6 judge's decision whether you can do that or not. Do
7 you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you have any questions about
10 the deal?

11 THE DEFENDANT: No.

12 THE COURT: You discussed it with your
13 lawyer?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand, Mr. Rodgers,
16 you have a right to a preliminary hearing, to
17 confront and cross-examine the State's witnesses, to
18 challenge their evidence, to call any witnesses you
19 might have, to testify or not testify and I couldn't
20 hold that against you at a preliminary hearing? Do
21 you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that waiver
24 that you're doing today is unconditional? That means
25 between now and your appearance before Judge

LOREE GALLEGOS, CCR 426
JUSTICE COURT DEPARTMENT 7, 455-4581

1 Bonaventure, if you changed your mind about the deal
2 you could still plead not guilty to the original
3 possession with intent to sell charge and you could
4 have a jury trial in district court, but you could
5 not come back to justice court for a preliminary
6 hearing on this case. You are giving up that right
7 permanently to take the deal today. Do you
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Knowing then, Mr. Rodgers, you
11 have a right to a preliminary hearing, do you wish to
12 unconditionally waive your preliminary hearing to
13 take the deal that Mr. Cox has discussed with you?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. It appears to me from the
16 Complaint on file herein that crimes have been
17 committed, to wit: Possession of controlled
18 substance with intent to sell.

19 The defendant, having unconditionally
20 waived his right to a preliminary hearing, I hereby
21 order said defendant to be held to answer to said
22 charge in the Eighth Judicial District Court, State
23 of Nevada, in and for the County of Clark at the
24 following date and time:

25 THE CLERK: June 7th, 8:30, Department VI.

LOREE GALLEGOS, CCR 426
JUSTICE COURT DEPARTMENT 7, 455-4581

1 THE COURT: Okay, thanks.

2

3

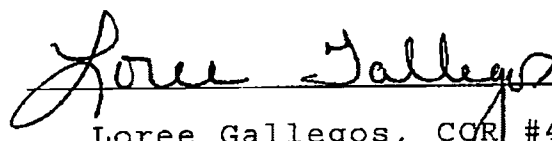
* * * * *

4

5 ATTEST: Full, true, and accurate transcript of
6 proceedings.

7

8


Loree Gallegos, CCR #426

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

LOREE GALLEGOS, CCR 426
JUSTICE COURT DEPARTMENT 7, 455-4581

CRIMINAL

GEM
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED IN OPEN COURT

JUN 06 2001

SHIRLEY B. PARRAGUIRRE, CLERK

BY Nora Peña

DEPUTY

NORA PEÑA

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CRAIG ALLEN RODGERS,
#1680324

Defendant.

Case No. C175580
Dept. No. VI
Docket B

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: POSSESSION OF CONTROLLED SUBSTANCE
(Felony - NRS 453.336), as more fully alleged in the charging document attached hereto as
Exhibit "1".

My decision to plead guilty is based upon the plea agreement in this case which is as
follows:

The State has agreed not to oppose treatment under NRS 453.3363 and a one year period
of probation.

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty I admit the facts which support all the elements of
the offense(s) to which I now plead as set forth in Exhibit "1".

I understand that as a consequence of my plea of guilty the Court must sentence me to
imprisonment in the Nevada State Prison for a minimum term of not less than one (1) year and
a maximum term of not more than four (4) years. The minimum term of imprisonment may not

RECEIVED

JUN 07 2001

COUNTY CLERK

RECEIVED

JUN 07 2001

COUNTY CLERK

1 exceed forty percent (40%) of the maximum term of imprisonment. I understand that I may also
2 be fined up to \$5,000.00. I understand that the law requires me to pay an Administrative
3 Assessment Fee. I also understand that a conviction of any violation of NRS Chapter 453, the
4 Uniform Controlled Substance Act, requires that I pay a controlled substance analysis fee.

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

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

12 I understand that if more than one sentence of imprisonment is imposed and I am eligible
13 to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences
14 served concurrently or consecutively.

15 I also understand that information regarding charges not filed, dismissed charges, or
16 charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

17 I have not been promised or guaranteed any particular sentence by anyone. I know that
18 my sentence is to be determined by the Court within the limits prescribed by statute. I
19 understand that if my attorney or the State of Nevada or both recommend any specific
20 punishment to the Court, the Court is not obligated to accept the recommendation.

21 I understand if the offense(s) to which I am pleading guilty to was committed while I was
22 incarcerated on another charge or while I was on probation or parole that I am not eligible for
23 credit for time served toward the instant offense(s).

24 I understand that the Division of Parole and Probation will prepare a report for the
25 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
26 sentencing, including my criminal history. This report may contain hearsay information
27 regarding my background and criminal history. My attorney and I will each have the opportunity
28 to comment on the information contained in the report at the time of sentencing. Unless the

1 District Attorney has specifically agreed otherwise, then the District Attorney may also comment
2 on this report.

3 WAIVER OF RIGHTS

4 By entering my plea of guilty, I understand that I am waiving and forever giving up the
5 following rights and privileges:

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

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

13 3. The constitutional right to confront and cross-examine any witnesses who would
14 testify against me.

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

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

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

21 VOLUNTARINESS OF PLEA

22 I have discussed the elements of all of the original charge(s) against me with my attorney
23 and I understand the nature of the charge(s) against me.

24 I understand that the State would have to prove each element of the charge(s) against me
25 at trial.

26 I have discussed with my attorney any possible defenses, defense strategies and
27 circumstances which might be in my favor.

28 All of the foregoing elements, consequences, rights, and waiver of rights have been

1 thoroughly explained to me by my attorney.

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

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

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

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

12 DATED this 7th day of June, 2001.

13
14 Craig Allen Rodgers
15 CRAIG ALLEN RODGERS
16 Defendant

17 AGREED TO BY:

18
19 Th. M. Donald for
20 THOMAS M. CARROLL
21 Chief Deputy District Attorney
22
23
24
25
26
27
28

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court hereby certify that:

4 1. I have fully explained to the Defendant the allegations contained in the charge(s) to
5 which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution that
7 the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent
9 with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

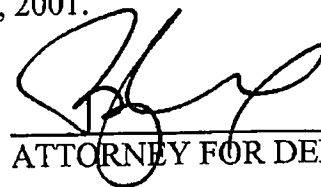
11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs 1
17 and 2 above.

18 Dated: This 7th day of June, 2001.

19
20
21
22
23
24
25
26
27
28



ATTORNEY FOR DEFENDANT

tgD

1 **INFO**
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

9 I.A. 6/7/01
10 8:30 A.M.
11 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13
14 Plaintiff,

15 -vs-

16 CRAIG ALLEN RODGERS,
17 #1680324

18 Defendant.

Case No. C175580
Dept. No. VI
Docket B

INFORMATION

19 STATE OF NEVADA }
20 COUNTY OF CLARK } ss:

21 STEWART L. BELL, District Attorney within and for the County of Clark, State of
22 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

23 That CRAIG ALLEN RODGERS, the Defendant(s) above named, having committed the
24 crime of **POSSESSION OF CONTROLLED SUBSTANCE (Felony - NRS 453.336)**, on or
25 about the 20th day of April, 2001, within the County of Clark, State of Nevada, contrary to the
26 form, force and effect of statutes in such cases made and provided, and against the peace and
27 dignity of the State of Nevada, did then and there wilfully, unlawfully, feloniously, knowingly,

28 //

//

//

//

//

EXHIBIT "1"

1 and intentionally possess, for the purpose of sale, a controlled substance, to-wit: Cannabis,
2 commonly known as Marijuana.

3 STEWART L. BELL
4 DISTRICT ATTORNEY
5 Nevada Bar #000477

6 BY *Th. M. Donald*
7 THOMAS M. CARROLL
8 Chief Deputy District Attorney
9 Nevada Bar #004232
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 DA#01F06561X/tgd
27 LVMPD EV#0104202045
28 PCSWITS - F
(TK7)



A CENTURY OF SERVICE

COMMISSIONERS

Steve Sisolak, Chair
Larry Brown, Vice-Chair
James B. Gibson
Susan Brager
Marilyn Kirkpatrick
Chris Giunchigliani
Lawrence Weekly

COUNTY MANAGER

Yolanda King

ASST. SPECIAL PUB. DEF.

Randall H. Pike

Office of the Special Public Defender

330 S. Third Street, 8th Floor, Las Vegas NV 89101

(702) 455-6265/6266

Fax (702) 455-6273

December 5, 2017

Mr. Craig Rodgers #1680324
Clark County Detention Center
330 South Casino Center Blvd.
Las Vegas, Nevada 89101

Re: C-16-314359-1; C-16-316167-1

Dear Mr. Rodgers:

This letter is to inform you with regard to some recent developments that may have an effect on our continued representation of you in the above referenced cases. As you already know, when the public defender represented you, they obtained your cellular telephone from your property at the Clark County Detention Center. Once our office was appointed to represent you, this cellular telephone was turned over to our assigned investigator for safe keeping in order to maintain the chain of custody.

In August, 2017, however, the assigned investigator resigned and all the cases, including yours, were re-assigned to other investigators. It was during this re-assignment that your cellular telephone was either lost or stolen, however, the loss remained undiscovered until approximately two weeks ago.

When we discovered that no investigator had taken custody of the cell phone, an office-wide search ensued. Calls were made to the prior investigator, the office was physically searched and all files that had been closed since the investigator resigned were pulled from storage and searched just in case the phone had been mis-filed. We're sorry to say that we have not been successful in locating the cellular telephone.

We do, however, maintain the evidence previously taken from your cellular telephone - including the photos of Annette Martinez, your injuries from that incident and the text messages. With regard to the case involving Savannah Taylor, we have audio files of conversations (which may or may not have come from the cellular telephone), Facebook posts and Facebook Messenger posts.

Mr. Craig Rodgers
December 5, 2017
Page Two

Although this letter is to advise you of the loss of the telephone, rest assured that our search will continue and, if the telephone does turn up, you will be immediately notified. We also understand, however, that the loss of this telephone may cause you to lose confidence in our ability to handle your cases. Accordingly, if you feel that you are no longer able to trust us to adequately represent you, please advise and a motion to withdraw will be immediately filed on your behalf.

Sincerely,

A handwritten signature in black ink, appearing to be 'MS' or similar initials, written in a cursive style.

Melinda E. Simpkins, Esq.
Daniel R. Page, Esq.

Steven D. Grierson

1 MOT
2 OFFICE OF THE SPECIAL PUBLIC DEFENDER
3 RANDALL H. PIKE, ESQ.
4 ASSISTANT SPECIAL PUBLIC DEFENDER
5 State Bar No. 1940
6 MELINDA SIMPKINS, ESQ.
7 CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
8 State Bar No. 7911
9 DANIEL R. PAGE, ESQ.
10 CHIEF DEPUTY SPECIAL PUBLIC DEFENDER
11 State Bar No. 10706
12 330 South Third Street, Suite 800
13 Las Vegas, NV 89101
14 (702) 455-6266
15 Attorney for CRAIG RODGERS

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 -o0o-

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 CRAIG RODGERS, #1680324

17 Defendant.

CASE NO: C-16-314359
DEPT. NO: 6

HEARING DATE: 11-27-17
HEARING TIME: 8:30 am

18 **MOTION FOR ORDER TO SHOW CAUSE WHY THE**
19 **STATE OF NEVADA SHOULD NOT BE HELD**
20 **IN CONTEMPT OF COURT FOR FAILING TO COMPLY WITH**
21 **THE COURT'S ORDER REGARDING DISCOVERY**

21 COMES NOW the Defendant, CRAIG RODGERS, by and through the
22 Assistant Special Public Defender, RANDALL H. PIKE, ESQ., MELINDA SIMPKINS,
23 ESQ. and DANIEL R. PAGE, ESQ., Chief Deputy Special Public Defenders and files
24 this Motion for Order to Show Cause Why the State of Nevada Should Not be Held
25 in Contempt of Court for Refusing to Comply with the Court's Order Regarding
26 Discovery.

27 ///

28 ///

///

1 This Motion is based upon the Memorandum of Points and Authorities
2 attached hereto, the evidence to be adduced at the hearing hereon and the papers
3 and pleadings on file with this Court.

4 DATED this 15th day of November, 2017.

5
6 RANDALL H. PIKE
ASSISTANT SPECIAL PUBLIC DEFENDER

7 /s/ MELINDA E. SIMPKINS

8 MELINDA SIMPKINS, ESQ.
9 Nevada Bar No. 7911
DANIEL R. PAGE, ESQ.
10 Nevada Bar No. 10706
Chief Deputy Special Public Defenders
11 330 S. 3rd St., Suite 800
Las Vegas, Nevada 89101
12 Attorneys for CRAIG RODGERS

13 **NOTICE OF MOTION**

14 TO: THE STATE OF NEVADA, Plaintiff

15 TO: STEVEN WOLFSON, District Attorney, Attorney for Plaintiff

16 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the above and
17 foregoing Motion will be heard before the above entitled Court on the 27 day of
18 November 8:30 AM, 2017, at _____ o'clock _____.M.

19 DATED this 15th day of November, 2017.

20
21 /s/ MELINDA E. SIMPKINS

22 Chief Deputy Special Public Defender

23
24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **STATEMENT OF FACTS**

26 On August 12, 2016, a Motion for Discovery was filed by the Public Defender
27 on Craig Rodgers behalf. At the hearing on August 24, 2016, the District Court
28

1 granted that Motion. Generally¹, the State was ordered to provide 1). Field and
2 investigative notes of interviews of any witnesses and potential witnesses; 2). Criminal
3 history of material witnesses - felony convictions within the last ten years; 3). Reports
4 generated by LVMPD; 4). Photographs, videos, recordings, diagrams or graphs
5 including photos of the alleged victim while at the hospital; 5). Copies of requests for
6 and/or results of all crime scene analysis; 6). Inconsistent statements by any material
7 witness; 7). All audio recordings or any calls; 8). The complete CAD report; 9.) Names
8 and contact information for all witnesses the State intends to call; 10). Details of any
9 compensation or other benefits to witnesses in exchange for their cooperation; 11).
10 Medical records; 12). Media involvement; 13). Chain of Custody information; 14).
11 Expert Notes and Reports; 15). and Records relation to Mental Health.

12 Some of these items have been turned over to the defense, some have not.
13 Initial attempts have been made to speak with the District Attorney's Office with
14 regard to the outstanding information, however, no response was received². An e-
15 mail was sent to the District Attorney's Office on October 23, 2017, however, no
16 response was received. On November 13, 2017, an answer was received from the
17 newly assigned District Attorney with regard to the request for file review but, due to
18 DA trial schedules, it cannot be accomplished until after calendar call on November
19 20, 2017.

20 The outstanding discovery items are as follows:

21 Item One: Officer notes to review for Brady Material, Audio/Video of
22 Alleged Victims statement.

23 Item Two: Records of witnesses regarding any felonies or crimes of
24 moral turpitude

25 ¹
26 Due to the specific nature of the request and the Order, a copy of the Motion is
27 attached hereto as Exhibit A and a copy of the Court Minutes granting the Motion are
28 attached hereto as Exhibit B.

²The assigned District Attorney has since been changed.

still missing
1

1 **Item Four:** Photos of the alleged victim taken at the hospital

2 **Item Five:** Forensic testing results

3 **ARGUMENT**

4 The Court has the authority to hold the State in contempt for failing to follow
5 a lawful order of this Court. NRS 22.010 states, in pertinent part, that:

6 The following acts or omissions shall be deemed contempts:

7 * * *

8 3. Disobedience or resistance to any lawful writ, order, rule or
9 process issued by the court or judge at chambers.

10 Despite this Court's clear order that requested discovery was to be turned over,
11 the State has not been compliant. Accordingly, Craig Rodgers requests that the State
12 of Nevada be held in Contempt of Court for violating the Court's discovery order.

13 DATED this 15th day of November, 2017.

14 RANDALL H. PIKE
15 ASSISTANT SPECIAL PUBLIC DEFENDER

16 /s/ MELINDA E. SIMPKINS

17 MELINDA SIMPKINS, ESQ.
18 Nevada Bar No. 7911
19 DANIEL R. PAGE, ESQ.
20 Nevada Bar No. 10706
21 Chief Deputy Special Public Defenders
22 330 S. 3rd St., Suite 800
23 Las Vegas, Nevada 89101
24 Attorneys for CRAIG RODGERS
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that service of the Motion for Order to Show Cause Why the State of Nevada Should Not be Held in Contempt of Court for Refusing to Comply with the Court's Order Regarding Discovery was made pursuant to EDCR 7.26 on the attorney for the named parties by means of electronic mail to the email address provided to the court's electronic filing system for this case. Proof of Service is the date service is made by the court's electronic filing system by email to the parties and contains a link to the file stamped document.

PARTY

EMAIL

STATE OF NEVADA

DISTRICT ATTORNEY'S OFFICE
email: motions@clarkcountyda.com

/s/ SHADONNA SCURRY

Employee of Special Public Defender

MDIS

CRAIG RODGERS, #1680324

Pro. Per

330 CASINO CENTER BOULEVARD

LAS VEGAS, NEVADA 89101

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
4/24/2017 2:38 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

27

STATE OF NEVADA

Plaintiff,

vs.

CRAIG RODGERS, #1680324

Defendant

) Case No.: C-16-314359-1

) Dept. No.: VI

) Docket No.: _____

MOTION TO DISMISS COUNSEL

DATE: May 15, 2017

TIME: 8:30am

COMES NOW, the Defendant, CRAIG RODGERS, #1680324, and Moves this Honorable Court, to Dismiss Counsel, JEREMY WOOD, NEVADA BAR NUMBER 12136, of the Clark County Public Defender's Office, and appoint other counsel to represent the defendant.

THIS MOTION is made and based upon all the papers, pleadings and documents on file, and any

RECEIVED

APR 24 2017

CLERK OF THE COURT

RECEIVED
APR 17 2017
CLERK OF THE COURT

13

oral argument the Defendant may be asked to adduce at the Hearing on this matter. All factual statements are set forth in the Points and Authorities contained herein.

DATED THIS 7th day of April, 2017

X *Craig Rodgers*
 CRAIG RODGERS, #1680324
 DEFENDANT

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff; and,
 TO: STEVEN B. WOLFSON, Clark County District Attorney

PLEASE TAKE NOTICE that the Undersigned will bring the above and foregoing MOTION TO DISMISS COUNSEL on the _____ day of _____, 2017, at the Hour of 8:30 a.m. in the above entitled Court, or as soon thereafter as the Defendant may be heard.

DATED THIS 7th day of April, 2017

X *Craig Rodgers*
 CRAIG RODGERS, #1680324

RECEIVED
 APR. 17 2017
 CLERK OF THE COURT

I. POINTS AND AUTHORITIES

A. STATEMENT OF THE CASE

ON July 18, 2016, Defendant Rodgers filed a Pro Per Motion to Dismiss Counsel in Department VI of the Eighth Judicial District Court. The Motion was scheduled to be heard on August 8, 2016 by the Honorable Judge ELISSA F. CADISH. The hearing was cancelled, however, after DAVID WESTBROOK of the Clark County Office of the Special Public Defender was attached as co-counsel to assist Wood.

~~DEFENDANT IS COMPELLED~~ to submit the instant Motion on the ground that issues Mr. Rodgers attempted to have addressed by the previous Motion remain unresolved. Moreover, counsel's perceived animosity towards Mr. Rodgers has created new disagreements which have led to the complete collapse of the attorney/client relationship.

B. PROCEDURAL BACKGROUND

It is respectfully requested of this Court to Grant this Motion to Dismiss Counsel, and to appoint new counsel

1 for the following reasons:
2

3 Since JEREMY WOOD has been appointed, the Defendant
4 CRAIG RODGERS, #1680324 has been prejudiced and suffered
5 manifest injustice based on counsel's refusal or failure to:
6

- 7 1) did not once object to any of the
8 leading questions asked by the prose-
9 cution during the preliminary hearing;
- 10 2) call or interview witnesses;
- 11 3) consider a legal defense of self-de-
12 fense, or defense of others; and,
- 13 4) present a cognizable defense, which
14 will inevitably result in a jury ver-
15 dict that is "unreliable."

16 17 18 II. ARGUMENT

19 Defendant Craig Rodgers, #1680324, asserts that he is
20 being denied his right to effective representation due to
21 wholly inadequate actions of his court appointed counsel.
22

23 Further, counsel's innate actions comport to nothing more
24 than a violation of defendant's due process rights.

25 Defendant's primary complaint is that counsel did not
26 object to any of the leading questions asked by the
27 prosecution of witnesses and the alleged victim during
28

the April 21, 2016 preliminary hearing.

In the case of Sheriff, Washoe County v. James Eddie Myles, 99 Nev. 817, 672 P.2d 639 (1983), the Second Judicial District Court granted a pretrial petition for writ of habeas corpus after initially concluding that inmate Myles was denied his Sixth Amendment right to the effective assistance of counsel as a result of his counsel's failure to object to an allegedly erroneous continuance of his preliminary hearing. (The Nevada Supreme Court subsequently reversed on other grounds.)

As Defendant Rodgers urged in his previous Motion to Dismiss, Mr. Wood has also steadfastly failed to act with reasonable diligence and promptness in representing his client, which is contrary to Nevada Rules of Professional Conduct Rule 1.3.

When Defendant asked Mr. Wood to appeal the Court's Denial of Rodgers' pretrial Petition for Writ of Habeas Corpus, Mr. Wood advised his client - incorrectly - that "the law had changed," and that the denial of a habeas petition could no longer be appealed.

Mr. Wood also incorrectly advised Mr. Rodgers that it was not possible under the law for the defense to obtain a transcript of the 9-1-1 call placed by the alleged victim in this case on the morning of March 6, 2015.

The defendant has an unqualified right to legal as-

1 sistance that expresses loyalty to said defendant. "The
2 right to counsel is the right [also] to effective assistance
3 of counsel." Coyler v. Sullivan 100 S.Ct. 1708 (1980); and, Fra-
4 zier v. U.S., 18 F.3d 778 (9th Cir. 1994). Thus, the adversar-
5 ial process protected by the Sixth Amendment requires that
6 the defendant have "counsel acting in the role of an
7 advocate." Anders v. California, 87 S.Ct. 1396 & 1480 (1967).
8

9 By contrast, Mr. Wood has demonstrated that he will
10 not perform any task on Mr. Rodgers' behalf without
11 first conferring with Mr. David Westbrook. Mr. Wood and Mr.
12 Westbrook have both told Mr. Rodgers that if Defendant
13 attempted to ~~dismiss~~ Mr. Wood again, Mr. Westbrook would
14 withdraw as counsel from a separate criminal case Mr.
15 Rodgers currently has pending in the Eighth Judicial District
16 Court.
17

18 Mr. Rodgers was advised by Attorney PAUDORA LEVIN
19 that Mr. Westbrook was categorically prohibited from doing
20 this.
21

22
23 Most recently, Defendant has asked Mr. Wood to con-
24 duct interviews with potential witnesses that could form
25 the basis of a legal defense of self-defense, or defense
26 of others. Mr. Wood, on the other hand, is not keeping
27 his client informed on what he is doing on the defen-
28

1 dant's behalf. Counsel has not secured exculpatory discov-
2 ery materials related to the alleged victim's written
3 statement given in the hospital, nor hired an expert
4 medical examiner for the defense to rebut Mr. Rodgers'
5 accusers' accusations. In fact, Mr. Wood has not
6 spent more than thirty minutes with his client at
7 any contact visit (attached is a copy of Defendant Rod-
8 gers' visitation log, including date, time, and duration
9 of each visit.)

10 Counsel's failure to even consider these legal defenses,
11 and failure to spend an adequate amount of time in legal
12 research deny the defendant of effective assistance of
13 counsel as guaranteed by the Sixth Amendment to the
14 Constitution of the United States; and, Article 1, Section
15 8 of the Nevada Constitution.

16 In Buffalo v. State, 111 Nev. 1139; 901 P.2d 647 (1995), al-
17 though the Nevada Supreme Court adopted neither of the
18 particular versions of the facts presented by either the
19 defense or the prosecution, it concluded that Mr. Buffalo
20 was not adequately defended in a case in which the
21 jury heard "all the bad news, and none of the possib-
22 ly good news." Defendant Rodgers contends that coun-
23 sel's failure to investigate leads, or to call or interview
24 witnesses will inevitably lead to a similar outcome in
25 the instant case.

26 As a result, the complete collapse of the attorney/cli-
27
28

ent relationship has occurred.

Since "the complete collapse [has] occurred[, or is evident, a refusal to substitute counsel [would violate]" Defendant Rodgers's Sixth Amendment right. Young v State, 120 Nev. 963 (2004).

CONCLUSION

A party who is unable to provide effective or adequate assistance is no better than one who has no counsel at all; and any appeal(s) would be futile in its' gesture. Evitts v. Lucey, 105 S. Ct. 830 (1985); Douglas v. California, 83 S. Ct. 814 (1963).

Wherefore fundamental fairness requires the abolition of the prejudice which the defendant is presently suffering Mr. Rodgers respectfully prays that this Honorable Court will Grant this Motion to Dismiss JEREMY WOON as counsel instantter, and to appoint other counsel to represent Defendant going forward.

DATED THIS 7th day of April, 2017.

I, CRAIG RODGERS, #1680324, do solemnly swear, under

1 the penalty of perjury, that the above MOTION TO DISMISS
2 COUNSEL is accurate, true and correct to the best of
3 my knowledge.

4 NRS 171.102 and NRS 208.165.

5
6 Respectfully submitted,

7
8 *X Craig Rodgers*

9 CRAIG RODGERS, #1680324

10 DEFENDANT

11 330 CASINO CENTER BOULEVARD

12 LAS VEGAS, NEVADA 89101

13
14
15
16 CERTIFICATE OF SERVICE

17
18 I hereby certify that service of the above and forego-
19 ing was made this 7th day of April, 2017 via United States
20 Mail to STEVEN D. GRIERSON, Clark County Clerk of the
21 Court.
22

23
24 BY: *X Craig Rodgers*

25 CRAIG RODGERS, #1680324

26 DEFENDANT
27
28

1 Your Honor,

2 With respectful consideration of the Court's full
3 calendar, I'll limit my argument to why Mr. Wood
4 should be dismissed as counsel to three points:

5 #1:

6 On page 19 of the preliminary hearing transcript,
7 in lines 8-9, Mr. Wood asked Ms. Martinez if po-
8 lice took pictures of her ear at the hospital.

9 Ms. Martinez affirmed that pictures were taken.

10 - The incident in question allegedly took place
11 on March 6, 2015.

12 - The preliminary hearing was held on April 21,
13 2016.

14 - Ms. Martinez's medical records were avail-
15 able to counsel as early as April 11, 2016 - a
16 full ten days before the preliminary hearing.

17 I didn't receive a copy of those records until
18 late July of 2016, Your Honor, which was three months
19 too late to rebut any of the misstatements that
20 the prosecution asserted at the prelim.

21 So I was prejudiced by the false information
22 received by the magistrate.

23 (see OVER for Judge Hatten)

Also, Your Honor, I complained to Mr. Wood that Judge Hafem, who presided over the preliminary hearing, was dozing off during the proceedings. I asked him to get a copy of the JAVS footage so we could file a formal complaint.

Mr. Wood told me - untruthfully - that the JAVS system did not work in Judge Hafem's courtroom.

As we all know, Your Honor, Judge Hafem was later pressured to step down after another incident in his courtroom. Mr. Wood's failure to follow up on this complaint is clearly an example of ineffective assistance of counsel.

#2:

On page 21 of the preliminary hearing transcript, Ms. Martinez stated that she gave a written statement of what she alleges took place on the morning of March 6, 2015 to the police while she was at the hospital.

COUNSEL HAS NOT OBTAINED A COPY OF THE STATEMENT MS. MARTINEZ MADE AT THE HOSPITAL.

- Prior to trial, the State has a duty to provide any and all exculpatory evidence in its actual or constructive possession, per Brady and Kyles.

THE FAILURE TO OBTAIN A COPY OF MS. MARTINEZ'S INITIAL STATEMENT SEVERELY LIMITS COUNSEL'S ABILITY TO PRESENT AN ADEQUATE DEFENSE ON MY BEHALF, BECAUSE THE JURY WOULD BE EFFECTIVELY PREVENTED FROM RECEIVING AND CONSIDERING INFORMATION THAT MIGHT PROVE MY INNOCENCE.

- Pursuant both to Roberts v. State and Jimenez v. State, "if there exists a reasonable chance that the claimed evidence would have affected the judgment of the trier of fact," there are grounds for reversal or a conviction.

Exculpatory evidence cannot be kept out of the defense's hands, even if the prosecution doesn't have it, but the police do. That would undermine Brady.

United States v. Riley holds that police are RE-
QUIRED to preserve the officer's notes in situa-
tions like the hospital interview with Ms. Marti-
nez. Destruction of notes like those from witness
interviews constitutes grounds for dismissal.

BY FAILING TO EVEN FILE A MOTION TO ORDER
THAT THE EVIDENCE BE PRESERVED, COUNSEL MAY
HAVE PRECLUDED THE ACCUSED FROM EVER GAINING
ACCESS TO THIS CRUCIAL PIECE OF INFORMATION.

AND Finally, Your Honor,

#3:

Mr. Wood has not spent any time at all pre-
paring my case.

Pursuant to McFadden v. United States, when a
defendant makes a claim of ineffective assistance
of counsel pre-trial, the Court must conduct an
inquiry to assess the counsel's preparedness.

1 In the case at bar Judge, as you can see from
2 the visitation log, Mr. Wood has never spent more
3 than 30 minutes discussing my case with me at
4 any given time.

5
6 - Not just that, but he has consistently lied
7 to me about when he's going to file Motions
8 on my behalf. TO DATE HE HAS ONLY FILED
9 TWO MOTIONS.
10

11 - Mr. Wood also always has a negative at-
12 titude whenever I call him at his of-
13 fice. He constantly tries to coerce me into
14 taking a deal, instead of preparing a trial
15 defense based on the merits of the case.
16

17
18 BASED ON ALL THESE FACTS, Judge Cadish, the
19 complete collapse of the attorney/client relationship
20 occurred a long time ago. I do not trust this
21 man. At this point, a refusal to substitute coun-
22 sel would violate my rights under the Sixth Amend-
23 ment, per the Court's ruling in Young v. State.
24

25 With that, I pray Your Honor will Dismiss Mr. Wood
26 and appoint new counsel going forward. And I'll
27 submit.
28

OFFICE OF THE SPECIAL PUBLIC DEFENDER



*THIS IS The SAME Doctor That
Treated her at the Hospital*

Memo

To: Melinda Simpkins, Daniel Page
CC: C. RODGERS KIDNAPPING CASE INV. File
From: J. C. Galiano
Date: 10/11/17
Re: 10/11/17 Telephonic Interview of Dr. Nicholas Kwangsoo Han
Home: 9721 Royal Lamb Dr Las Vegas NV 89145 (702) 501-9715
Bus: 500 N. Rainbow Blvd Suite #203 Las Vegas NV 89107 (702) 259-1228
SSN#: 413-06-3385 || DOB: 11/28/1966

On Wednesday, October 11, 2017, I had an opportunity to speak with Dr. Han over the telephone following his review of Antoinette Martinez' medical records from Desert Springs Hospital. Dr. Han did not recall this particular instance or patient (A. Martinez) and informed that he was basing his opinion on the records and photographs we provided him with.

With respect to the potential source (tool / weapon) for the given injury - "laceration to left earlobe", Dr. Han stated, "I would have to guess it was an earring - not a knife injury." He noted the injury consisted of 3 "separate lacerations" - 1 in the front / anterior of ear lobe, 1 behind / posterior of ear lobe and 1 at the crease of the ear also behind / posterior of ear. Dr. Han explained that the lacerations "...did not align..." between the posterior and anterior laceration(s) on the ear. With a knife injury, Dr. Han noted, you would expect to observe a straight laceration. In this instance, the length of the laceration(s) (referring to injury in total) did not correspond to an equal distance or length, which is what one would more than likely find with a knife.

Dr. Han commented it is not impossible for a knife to cause the given wound being discussed; however, he would find it to be unlikely. He could offer no opinion on whether the injury was a "tear" or "cut" and felt comfortable stating that "laceration" is the term that is regularly used.

With respect to whether or not they would have obtained photographs, Dr. Han explained that they do not regularly do so, with the exception being for educational purposes and only if the patient provides their consent. He could does not think they obtained photographs of Martinez.

Blood draws or toxicology are not performed on patients as normal protocol during these types of instances.

Dr. Han informed that certain parts of the body can bleed more than others depending on a number of variables (i.e., injury, temperature, health, etc.) Generally, any area of the body, that contains a greater number of blood vessels, typically bleeds more than those containing fewer vessels.

Dr. Han agreed to speak with us again with any follow-up questions or to review additional information / photographs, if obtained.

H. H. H.

CLERK OF THE COURT

OSCC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CRAIG RODGERS, PLAINTIFF(S)
VS.
WILLIAM HUTCHINGS WARDEN,
DEFENDANT(S)

CASE NO.: A-20-820408-W

DEPARTMENT 22

CIVIL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Default Judgment
- ☐ Judgment on Arbitration
- ☐ Stipulated Judgment
- ☐ Summary Judgment
- ☐ Involuntary Dismissal
- ☒ Motion to Dismiss by Defendant(s)
- ☐ Stipulated Dismissal
- ☐ Voluntary Dismissal
- ☐ Transferred (before trial)
- ☐ Non-Jury – Disposed After Trial Starts
- ☐ Non-Jury – Judgment Reached
- ☐ Jury – Disposed After Trial Starts
- ☐ Jury – Verdict Reached
- ☐ Other Manner of Disposition

DATED this 18th day of February, 2021.

Dated this 18th day of February, 2021

Susan Johnson

SUSAN JOHNSON
DISTRICT COURT JUDGE

198 7CD 60D3 F525
Susan Johnson
District Court Judge

1 **CSERV**

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

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 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case.

14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
16 known addresses on 2/19/2021

17 **Craig Rodgers**

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

19 **Steven Rose**

7600 Rainbow BLVD S
Las Vegas, NV, 89135