

IN THE SUPREME COURT OF THE STATE OF NEVADA

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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 2

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

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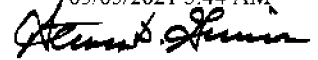
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CLERK OF THE COURT

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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
(C-16-314359-1)

DEPT NO: XXII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: February 4, 2021
TIME OF HEARING: 9:00 AM

THIS CAUSE having come on for hearing before the Honorable SUSAN JOHNSON, District Court Judge, on the 4th date of February, 2021, Petitioner not being present, IN PROPER PERSON, Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

STATEMENT OF THE CASE

On April 22, 2016, CRAIG RODGERS, aka Craig Allen Rodgers (hereinafter "Petitioner"), was charged by way of Information with BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B

1 Felony – NRS 200.481); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON
2 (Category B Felony – NRS 200.460); FIRST DEGREE KIDNAPPING WITH USE OF A
3 DEADLY WEAPON RESULTING IN BODILY HARM (Category A Felony – NRS 200.310,
4 200.320, 193.165); MAYHEM WITH USE OF A DEADLY WEAPON (Category B Felony
5 – NRS 200.280, 193.165); and ROBBERY (Category B Felony – NRS 200.230) for his actions
6 on or about March 6, 2015. On November 28, 2016, the State filed a Notice of Intent to Seek
7 Punishment as a Habitual Criminal.

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

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

20 On August 7, 2018, Petitioner filed a Motion to Appoint Alternate Counsel, wishing to
21 withdraw his guilty plea. On August 14, 2018, the Court granted Petitioner’s Motion, and
22 appointed Mr. John Parris, Esq. to review Petitioner’s case. Mr. Parris confirmed as counsel
23 on August 28, 2018. On September 6, 2018, the State advised the Court that it stipulated to
24 withdrawal of Petitioner’s guilty plea. The Court allowed Petitioner to withdraw his guilty
25 plea, and set the matter for trial.

26 On August 5, 2019, the State requested that the Second Amended Information be
27 stricken due to Petitioner’s withdrawal of his plea, and that the case proceed on the Amended
28 Information. The Court so ordered, and Petitioner’s case proceeded to jury trial. On August 6,

1 2019, Petitioner accepted a second set of plea negotiations, and the State filed anew a Second
2 Amended Information charging Petitioner with SECOND DEGREE KIDNAPPING
3 (Category B Felony – NRS 200.310, 200.330); ROBBERY (Category B Felony – NRS
4 200.230); MAYHEM (Category B Felony – NRS 200.380); and PANDERING (Category C
5 Felony – NRS 201.300.1). Petitioner executed a GPA memorializing the parties' agreement.

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

15 On September 24, 2019, Petitioner filed a Notice of Appeal. However, on November
16 25, 2019, the Nevada Supreme Court dismissed Petitioner's appeal as untimely. Remittitur
17 issued on December 26, 2019.

18 On August 31, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus
19 (Post-Conviction). That same day, he also filed an Ex Parte Motion for Appointment of
20 Counsel and Request for Evidentiary hearing. On October 27, 2020, this Court entered an
21 Order Denying Petitioner's Motion for Appointment of Counsel and Request for Evidentiary
22 Hearing. On December 31, 2020, the State filed its Response and Motion to Dismiss
23 Petitioner's instant Petition.

24 On January 7, 2021, this matter came before the Court, at which time the Court
25 continued the hearing for Petitioner to file a Reply and/or to arrange his appearance. On
26 February 4, 2021, this matter again came before the Court, at which time the Court noted that
27 Petitioner had failed to file a Reply, and had neglected to arrange his appearance in court;
28

thereafter, without hearing argument on the instant Petition, the Court made the following findings and conclusions:

ARGUMENT

I. PETITIONER'S INSTANT PETITION IS TIME-BARRED PURSUANT TO STATUTE

Pursuant to NRS 34.726(1), "a petition that challenges the validity of a judgment or sentence must be filed *within 1 year of the entry of the judgment of conviction...*" (Emphasis added). The Supreme Court of Nevada has held that NRS 34.726 should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998). "A timely direct appeal is one in which the notice of appeal is filed with the district court within the time period prescribed by statute." Id. at 1087, 967 P.2d at 1134. However, when no direct appeal has been taken, or when a defendant's *untimely* notices a direct appeal, "no 'appeal has been taken from the judgment' within the meaning of NRS 34.726(1) because nothing has actually happened." Id. Therefore, in such cases, the one-year time limit for filing for habeas relief begins to run from the date of the judgment of conviction. See id. at 1087, 967 P.2d at 1133-34.

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

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

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

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

9 In the instant case, Petitioner's Judgment of Conviction was filed on August 23, 2019.
10 Petitioner did not timely file a direct appeal. Therefore, this Court finds that, pursuant to NRS
11 34.726(1), Petitioner had until August 23, 2020, to timely file his petition for writ of habeas
12 corpus. The instant Petition was not filed until August 31, 2020, outside the one-year deadline
13 for a timely petition. As such, this Court concludes that Petitioner's instant Petition is subject
14 to dismissal as untimely, absent a showing of good cause and prejudice.

15 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO OVERCOME 16 HIS PROCEDURAL DEFAULT**

17 To avoid procedural default, under NRS 34.726, a petitioner has the burden of pleading
18 and proving specific facts that demonstrate good cause for his failure to present his claim in
19 earlier proceedings or to otherwise comply with the statutory requirements, *and* that he will
20 be unduly prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden,
21 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of Prisons, 104
22 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

23 "To establish good cause, appellants *must* show that an impediment external to the
24 defense prevented their compliance with the applicable procedural rule." Clem v. State, 119
25 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
26 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. "A qualifying
27 impediment might be shown where the factual or legal basis for a claim was not reasonably
28 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003).
The Court continued, "appellants cannot attempt to manufacture good cause[.]" Id. at 621, 81

1 P.3d at 526. Examples of good cause include interference by State officials and the previous
2 unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op. 19, 275 P.3d
3 91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault of the
4 petitioner. NRS 34.726(1)(a).

5 Petitioner does not recognize that his instant Petition is untimely, much less does he
6 address good cause for his failure to comply with the statutory deadline. See, Petition at 6
7 (answering “N/A” when asked if the petition is untimely). This Court finds that, because
8 Petitioner does not allege, much less demonstrate, good cause, Petitioner cannot overcome the
9 time-bar to his instant Petition. NRS 34.726(1)(a). Therefore, this Court concludes that
10 dismissal of the instant Petition is warranted.

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

14 In order to establish prejudice, the defendant must show “‘not merely that the errors of
15 [the proceedings] created possibility of prejudice, but that they worked to his actual and
16 substantial disadvantage, in affecting the state proceedings with error of constitutional
17 dimensions.’” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
18 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
19 must be a “substantial reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev.
20 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
21 1230 (1989)).

22 A proper petition for post-conviction relief must set forth specific factual allegations
23 that would entitle the petitioner to relief. NRS 34.735(6) states, in pertinent part, “[Petitioner]
24 must allege specific facts supporting the claims in the petition [he] file[s] seeking relief from
25 any conviction or sentence. Failure to raise specific facts rather than just conclusions may
26 cause the petition to be dismissed.” “Bare” and “naked” allegations are not sufficient to
27 warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
28 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “A claim is ‘belied’ when it is contradicted

1 or proven to be false by the record as it existed at the time the claim was made.” Mann v. State,
2 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

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

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

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

9 ...

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

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

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

16 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411
17 U.S. 258, 267, 93 S. Ct. 1602, 1608 (1973)). An entry of a guilty plea “waive[s] all
18 constitutional claims based on events occurring prior to the entry of the plea[], except those
19 involving voluntariness of the plea[] [itself].” Warden, Nevada State Prison v. Lyons, 100
20 Nev. 430, 431, 683 P.2d 505 (1984); see also Kirksey v. State, 112 Nev. 980, 999, 923 P.2d
21 1102, 1114 (1996) (“Where the defendant has pleaded guilty, the only claims that may be
22 raised thereafter are those involving the voluntariness of the plea itself and the effectiveness
23 of counsel.”). When a petitioner alleges ineffective assistance of counsel after pleading guilty,
24 the Nevada Court of Appeals recently held:

25 “a petitioner must allege specific facts demonstrating both that counsel’s advice
26 (or failure to give advice) regarding the guilty plea was objectively unreasonable
27 and that the deficiency affected the outcome of the plea negotiation process. Any
28 claim that does not satisfy this standard is outside the scope of permitted claims
and must be dismissed...Because events occurring after the entry of the plea
cannot have affected either counsel’s advice regarding entering the guilty plea
or the outcome of the plea negotiation process, ineffective-assistance claims

1 relating to post-plea proceedings necessarily fall outside the scope of claims
permitted by NRS 34.810(1)(a).”

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

3 Furthermore, the Nevada Supreme Court has held that “challenges to the validity of a
4 guilty plea and claims of ineffective assistance of trial and appellate counsel must first be
5 pursued in post-conviction proceedings.... [A]ll other claims that are appropriate for a direct
6 appeal must be pursued on direct appeal, or they will be *considered waived in subsequent*
7 *proceedings.*” Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis
8 added) (disapproved of on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222
9 (1999)). “A court must dismiss a habeas petition if it presents claims that either were or could
10 have been presented in an earlier proceeding, unless the court finds both cause for failing to
11 present the claims earlier or for raising them again and actual prejudice to the petitioner.”
12 Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001), overruled on other grounds
13 by Lisle v. State, 131 Nev. 356, 351 P.3d 725 (2015). Additionally, substantive claims are
14 beyond the scope of habeas and waived. NRS 34.724(2)(a); see also Evans, 117 Nev. at 646-
15 47, 29 P.3d 498 at 523; Franklin, 110 Nev. at 752, 877 P.2d 1058 at 1059.

16 Petitioner raises numerous claims for habeas relief. However, this Court finds that
17 Petitioner’s claims are waived for his failure to raise them on direct appeal, are outside the
18 scope of habeas review, are belied by the record, or are otherwise without merit; therefore,
19 this Court concludes that Petitioner cannot demonstrate prejudice sufficient to overcome his
20 procedural default.

21 **A. Counsel’s failure to file a timely direct appeal**

22 Petitioner first alleges that plea counsel was ineffective for failing to file a timely direct
23 appeal. Petition at 7. This Court finds that this claim is outside the scope of a challenge to
24 Petitioner’s Judgment of Conviction, as it does not involve the voluntariness of Petitioner’s
25 guilty plea, nor counsel’s effectiveness during entry of Petitioner’s guilty plea. Kirksey, 112
26 Nev. at 999, 923 P.2d at 1114. Therefore, this Court concludes that this claim cannot
27 demonstrate prejudice related to the dismissal of Petitioner’s instant Petition, as the claim itself
28 is not properly raised.

1 Furthermore, in the event Petitioner seeks to raise this claim to demonstrate good cause
2 for Petitioner's failure to timely file the instant Petition, this Court finds that such an effort
3 falls short because the substance of this claim is belied by the record. Petitioner alleges that
4 counsel was purposefully delinquent due to his "contentious relationship" with Petitioner.
5 Petition at 7-A:11-13. However, when executing the GPA, Petitioner affirmed that he was
6 satisfied with counsel's representations. See, GPA (filed on August 6, 2019) at 6:1-2.
7 Moreover, the United States Supreme Court has explained that defendants are not entitled to
8 any particular "relationship" with their counsel. Morris v. Slappy, 461 U.S. 1, 14, 103 S. Ct.
9 1610, 1617 (1983). Therefore, because Petitioner's claim is belied by the record, and further
10 unsupported by any evidence, this Court concludes that Petitioner's claim cannot constitute
11 good cause, much less demonstrate prejudice, to overcome Petitioner's untimeliness.
12 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

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

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

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

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

28 ///

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

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

9 Petitioner’s next claim alleges that plea counsel was ineffective for failing to raise a
10 direct appeal challenge to the effectiveness of Petitioner’s counsel at the preliminary hearing.
11 Petition at 9. This Court finds that this claim is outside the scope of habeas review, and that
12 Petitioner waived the substance of this claim by deciding to plead guilty.

13 Petitioner does not claim that plea counsel’s decisions on direct appeal could have
14 affected the voluntariness of Petitioner’s guilty plea. Petition at 9, 9-A. Nor does Petitioner
15 claim that plea counsel’s effectiveness regarding entry of Petitioner’s guilty plea was affected
16 by the issues plea-counsel briefed, or neglected to brief, in the untimely direct appeal effort.
17 Id. Therefore, this Court finds Petitioner’s claim is outside the scope of the instant habeas
18 review. Kirksey, 112 Nev. at 999, 923 P.2d at 1114. Thus, this Court concludes it cannot
19 demonstrate prejudice to overcome Petitioner’s timeliness.

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

27 ///

28 ///

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

2 Petitioner next alleges that plea counsel was ineffective upon the Court’s denial of
3 Petitioner’s attempt to return to Justice Court for a “new preliminary [hearing].” Petition at
4 10. However, this Court finds that Petitioner does not actually state any claims regarding plea
5 counsel’s ineffectiveness; instead, Petitioner argues only about the Court’s decision to deny
6 Petitioner’s motion for remand. Id. at 10, 10-A. Petitioner did not seek to appeal the Court’s
7 denial, nor did Petitioner seek a writ of mandamus regarding his efforts. Therefore, this Court
8 finds that Petitioner waived this claim by failing to pursue it before entering his guilty plea.
9 Evans, 117 Nev. at 646-47, 29 P.3d at 523. Moreover, this Court finds that Petitioner’s
10 substantive claim of district court error is expressly beyond the scope of habeas review. NRS
11 34.724(2)(a).

12 Because Petitioner waived this claim, and because it is beyond the scope of habeas
13 review, this Court concludes that Petitioner cannot demonstrate prejudice from this Court’s
14 dismissal of Petitioner’s claim as untimely.

15 **E. Counsel’s alleged withholding of information before Petitioner’s guilty plea**

16 Petitioner next asserts that plea counsel withheld information from Petitioner in order
17 to induce Petitioner’s guilty plea. Petition at 11. This Court finds that Petitioner’s claim is
18 based entirely on references to Petitioner’s self-serving letter to the Court. See id. at 11:6-17,
19 22-27. As such, this Court concludes Petitioner’s claim is bare and naked, and suitable only
20 for dismissal under Hargrove. 100 Nev. at 502, 686 P.2d at 225.

21 Moreover, this Court finds that Petitioner’s self-serving allegations are belied by the
22 record. Petitioner, upon executing the GPA, specifically affirmed the voluntariness of his plea,
23 asserting: “I believe that pleading guilty and accepting this plea bargain is in my best interest,
24 and that a trial would be contrary to my best interest.” GPA at 5. Further, the Court’s
25 withdrawal of the material witness warrant does not demonstrate that plea counsel was
26 misinformed; pursuant to NRS 178.494, the witness could have been in custody on that
27 warrant, and the withdrawal of such warrant would result in the release of that witness. As
28 such, Petitioner’s claim is belied by the record, and this Court concludes it is suitable for

1 dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Furthermore, this Court finds that the
2 mere reference to a warrant is *not* a “specific factual allegation” that demonstrates counsel
3 misled Petitioner as to the availability of a witness. See Gonzalez, 136 Nev. Adv. Op. 60, 476
4 P.3d at 90.

5 Because Petitioner’s claim is bare and naked, and further belied by the record, this
6 Court concludes that this claim fails to demonstrate prejudice sufficient to overcome
7 Petitioner’s procedural default.

8 **F. Counsel’s alleged misleading Petitioner regarding the defense expert’s**
9 **availability for trial**

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

19 Because Petitioner has failed to plead specific facts that, if true, would entitle Petitioner
20 to relief, this Court concludes that Petitioner cannot demonstrate that he will be prejudiced by
21 this Court’s dismissal of this claim as untimely.

22 **G. District Court’s denial of Petitioner’s attempt to withdraw guilty plea**

23 Petitioner next makes a derivative claim based on his earlier arguments about being
24 misled by counsel, arguing that the Court erred by denying his post-sentence attempt to
25 withdraw his guilty plea. Petition at 13. Petitioner, again, relies on his letter to the Court,
26 without any further substantiation of his claim. See id. However, as stated *supra.*, this Court
27 has concluded that the claims from which this claim is derived are themselves bare and naked;
28

1 therefore, this Court likewise concludes that Petitioner's instant derivative claim cannot
2 provide a basis for relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225; NRS 34.735(6).

3 Petitioner also seems to allege that he did not have an opportunity to review his PSI,
4 despite the PSI being prepared nearly one (1) year prior to Petitioner's sentencing. Petition at
5 13. However, this Court finds that such a proposition is belied by the record. Upon accepting
6 Petitioner's guilty plea, and sentencing Petitioner, the Court retained jurisdiction to consider
7 restitution as well as to address any Stockmeier issues in the PSI. See, Court Minutes, dated
8 August 6, 2019, at 2. Thereafter, on August 20, 2019, the Court conducted a hearing
9 specifically to address both restitution and Petitioner's PSI. See, Court Minutes, dated August
10 20, 2019. As such, Petitioner was given two (2) weeks to review and raise any issues found
11 within his PSI before his conviction became final on August 23, 2019. Because Petitioner's
12 PSI allegations are belied by the record, this Court concludes that they cannot form grounds
13 for relief under Hargrove. 100 Nev. at 502, 686 P.2d at 225.

14 Because Petitioner's claim is derivative of other claims that likewise cannot form a
15 basis for finding prejudice, and because it includes allegations that are belied by the record,
16 this Court concludes that Petitioner cannot demonstrate prejudice sufficient to overcome
17 Petitioner's untimeliness.

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

19 Petitioner finally claims that the State failed to comply with the terms of the GPA
20 because the GPA contemplated a charge that was originally raised in a separate criminal case.
21 Petition at 14. This Court finds that this claim is outside the scope of the instant habeas review.
22 Further, this Court finds that the factual basis for the inclusion of the single charge belies
23 Petitioner's claim.

24 This Court finds that Petitioner's final claim does not relate to the voluntariness of
25 Petitioner's plea, nor does it allege ineffective assistance of plea counsel. See Petition at 14,
26 14-A. Therefore, this Court concludes that this claim is not properly before this Court and is
27 subject to dismissal. Kirksey, 112 Nev. at 999, 923 P.2d at 1114.

28 ///

1 Furthermore, this Court finds that the record belies Petitioner's claim that he was
2 unaware that the State's dismissal of the separate case would not include the single charge
3 included in the Second Amended Information. See Petition at 14:11-13. Upon executing the
4 Guilty Plea Agreement (which incorporated the Second Amended Information by reference),
5 Petitioner expressly agreed to plead guilty to Pandering. GPA at 1:19. Petitioner further
6 affirmed the voluntariness of his decision, explaining:

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

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

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

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

15 GPA at 5:7-14 (emphasis added). Further, the Second Amended Information was included as
16 "Exhibit 1" to Petitioner's GPA. Finally, this Court finds that the Court Minutes reflect that
17 the Court canvassed Petitioner regarding the entry of his guilty plea, which included the
18 Pandering charge. See, Court Minutes, dated August 6, 2019. Therefore, this Court finds that
19 Petitioner was aware at the time he executed the GPA that the State would be including the
20 single charge from the separate case; he was likewise aware, therefore, that the State's
21 agreement to dismiss the separate case would clearly be a reference to the remaining claims
22 charged in that case. See GPA at 1:25-26. As such, this Court concludes that Petitioner's claim
23 is belied by the record and is suitable only for dismissal. Hargrove, 100 Nev. at 502, 686 P.2d
24 at 225.

25 Because Petitioner's claim is outside the scope of the instant habeas review, and
26 because it is belied by the record, this Court concludes that Petitioner's claim cannot
27 demonstrate prejudice sufficient to overcome the procedural bar to Petitioner's instant Petition.

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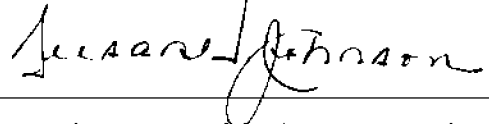
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1 **ORDER**

2 Therefore, COURT ORDERED, the State's Motion to Dismiss Petitioner Craig
3 Rodger's Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and is, GRANTED.

4 Furthermore, COURT ORDERED, Petitioner's instant Petition shall be, and is
5 DENIED.

6 Dated this 5th day of March, 2021

7 

8
9 The Honorable Susan H. Johnson

10 FB8 317 46D0 811F
11 Susan Johnson
12 District Court Judge

13 Respectfully submitted,

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

16 BY /s/ John Niman
17 JOHN NIMAN
18 Deputy District Attorney
19 Nevada Bar #14408
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28 jg/DVU

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.
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Heather L. Smith
CLERK OF THE COURT

1 CODE: J860

2 Name: Craig Rodgers

3 Address: P.O. Box 208
Indian Springs NV, 89070

4 Telephone: _____

Acting in Proper Person

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

9
10 Craig Rodgers

11 Plaintiff (Petitioner),

Case No. A-20-820408

12 vs. William Hutchings, warden,
13 State of Nevada

Dept. No. 22

14 Defendant (Respondent).
15

16 REQUEST FOR SUBMISSION

17 I, Craig Rodgers, acting in Proper Person, request that the
18 Motion For Reconsideration & Rehearing writ of Habeas corpus filed on 2-21-20
19 be submitted to the Court for consideration and determination.

20 I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

21 DATE: 2-10-21

22 *Craig Rodgers*
23 (Signature)

24 Craig Rodgers
25 (Name)

26 P.O. Box 208
27 (Address)

28 Indian Springs NV, 89070

(Telephone Number)

RECEIVED

FEB 25 2021

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 10th day of February, 2021, I mailed a true and correct copy of the foregoing, "Motion For reconsideration & rehearing for 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. Grierson
clerk of the court
200 Lewis Ave, 3rd Floor
Las Vegas NV 89155-1160

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

William Hutchings
Warden, SNOC
20825 Cold Creek Road
Indian Springs, NV 89020-0001

CC:FILE

DATED: this 10 day of February, 2021.

Craig Rodgers #222186
/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 For reconsideration

of rehearing for writ of 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

2-10-21

Date

Craig's Rodgers
Print Name

Title

File Stamp
Copy requested

Electronically Filed
03/08/2021

Heather Shinn
CLERK OF THE COURT

Craig Rodgers ID NO. 1021816

SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89070

Eighth Judicial District Court

Craig Rodgers
Plaintiff
v.

William Hutchinsons Warden,
State of Nevada

CASE NO.: A-20-820408-w

DEPT. NO.: 22

DOCKET: _____

Motion for Reconsideration & Rehearing for writ
of Habeas Corpus

COMES NOW, Petitioner, Craig Rodgers, herein above respectfully
moves this Honorable Court for an Motion for Reconsideration
& Rehearing for writ of Habeas Corpus

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

DATED: this 10th day of February, 2021

BY: Craig Rodgers

Craig Rodgers #1021816
Defendant In Proper Personam

RECEIVED

FEB 25 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

1 On January 7th this court ordered Mr. Rodgers to
2 Either reply to the State's response OR to Arrange his
3 appearance for the next court date, so then petitioner
4 did not receive the State's response until 01/22/21
5 See exhibit "A" way past the 45 days that you ordered
6 respondent to respond to this court order on September 9th,
7 2020 with the provisions of NRS 34.360 to 34.830, inclusive.
8 I Also Sent a "motion And order for transportation of inmate
9 for court appearance and it was received by the court on
10 January 25th and it says filed on February 4th, 2020 See
11 Exhibit "B", and then i also did what this court said to do
12 by sending in a Response to the State's and a opposition
13 to the State's motion to dismiss Petition For writ of
14 Habeas corpus that should also be in the record that
15 Petitioner has made several attempt's to Arrange my
16 appearance at both court hearings, so had the district
17 court granted my motion and ordered me to be transported
18 to court i would of been there See exhibit "B". Also on January
19 7th, 2021 i received a Letter from "Elin Johnson" that was
20 John Parris Private investigation saying my appeal
21 is being handled by Attorney "Julian Gregory" and list
22 his phone Number and address but every time i have called
23 that Number nobody has answered the phone. See exhibit "C".
24 Next my response to the State was sent to the district court
25 on January 25th, a couple day's after i received the State's
26 response so it should be on record that petitioner did
27 do everything this court requested him to do at which

1 petitioner also wrote a letter to Ms. Cook at S.B.C.C.
2 whose telephone number is 725-216-6500 Ext 66411 Since
3 she is the person that makes transportation and schedules
4 video court appearances so that also my proof that
5 I tried to do everything that was requested of me to
6 do to appear for court so you can call and also speak
7 with Sgt. Tate because I filed out a Emergency grievance
8 so Sgt. Tate made a incident report about me not being
9 scheduled for court. So I'm asking this court to
10 please grant my motion for reconsideration and
11 rehearing for writ of habeas corpus so I can make
12 a oral arguments since this is my only chance to have
13 my case reviewed because Mr. Parris did not file
14 a timely direct Appeal which has deprived petitioner
15 his constitutional right. And any alleged delay was not
16 the petitioner's fault and dismissal of the petition as untimely would
17 unduly prejudice the petitioner "NRS 34.226, and that failure to
18 consider the claims would result in a fundamental miscarriage
19 of justice" *Pellegrini v. State* 117 Nev. 860, 34 P.3d 519 (2001). And
20 since an appeal-deprivation claim may provide good cause to excuse any alleged
21 delay in filing a postconviction petition if the petitioner (1) asked counsel to file
22 an appeal, (2) Reasonably believed that counsel had filed an appeal, and (3) filed
23 the petition within a reasonable time after learning that a direct appeal had
24 not been timely filed "Hartman v. State, 119 Nev. 248, 71 P.3d 503 (2003).

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 10th
day of February, 2021, I mailed a true and correct copy of the foregoing, "Motion for
reconsideration & rehearing for 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. GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS NV 89155-1140

Steve Wolfson
Disturbed Attorney
200 LEWIS AVE
Las Vegas, NV 89155

William Hitchings
Warden SOCC
20825 Cold Creek Road
Indian Springs, NV 89070-0001

CC:FILE

DATED: this 10 day of February, 2021.

Craig Rodgers
Craig Rodgers #1221814
/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 For

Reconsideration & Petition for Return of Writ of 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.

Craig Rodger
Signature

2-10-21
Date

Craig Rodger
Print Name

Title

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Exhibit "A"

NEVADA DEPARTMENT OF CORRECTIONS

LEGAL MAIL

NAME: Rodgers, Craig

DOC#: 1221816

UNIT: V12 B 3 U

REPORT TO CONTROL AT ADMIN FOR THE FOLLOWING:

LEGAL MAIL: Office of the District Attorney

CERTIFIED MAIL: _____

REGISTERED MAIL: _____

DATE: 11/22/21

OFFICER: _____

INMATE SIGNATURE: Craig Rodgers

DOC#: 1221816

DATE: 1-22-21

DOC - 3020 (REV. 7/01)

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Exhibit "B"

File Stamp 23
copy requested

Electronically Filed
02/04/2021

Henrik J. Jamin
CLERK OF THE COURT

1 Craig Rodgers
2 NDOC No. 122184

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 Case No. A-20-820408-L

15 William Hutchings, Warden)
16 Steven B. Wolfson)
17 State of Nevada)

Dept. No. 22

18 Respondent.)
19)
20)

21 MOTION AND ORDER FOR TRANSPORTATION
22 OF INMATE FOR COURT APPEARANCE
23 ~~_____~~
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 only with conference~~
28 at the hearing in the instant case that is scheduled for RECEIVED 02/02/2021
29 at 9:00AM.

JAN 25 2021

CLERK OF THE COURT

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 Gebbers 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 ~~725~~-725-216-6500 Ext 66411

13
14 Dated this 13 day of JANUARY, 2021

15
16 Craig Rodgers #1221816

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19 am m
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CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 3rd
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 GRICERSON
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.

Craig Rodgers
Signature

1-13-2021
Date

Craig Rodgers
Print Name

Title

Craig Rodgers #1221814
P.O. Box 268
Indian Springs, NV, 89070

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CLERK OF THE COURT
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Exhibit " C "



Elia Johnson
702-704-5933
eliainvestigator@gmail.com

Mr. Rogers,

Per John Parris, the attorney handling your appeal is Attorney Julian Gregory. His office address is 411 S. 6th St. Las Vegas, NV 89101. His office phone number is 702-625-1183.

P.O. BOX 11293, Reno, NV 89510
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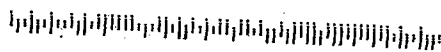
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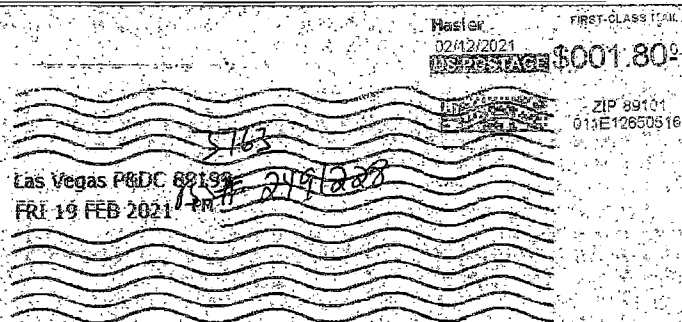
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CRAIG RODGERS # 1221816
HIGHT DESERT STATE PRISON
22010 COLD CREEK RD.
INDIAN SPRINGS, NV 89070

89070-



CRAIG RODGERS #1221816
P.O. Box 208
Indian Springs NV 89070



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Clerk of the Court
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1 NEFF

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 CRAIG RODGERS,

5
6 Petitioner,

7 vs.

8 WILLIAMS HUTCHINGS WARDEN; ET.AL.,

9 Respondent,

Case No: A-20-820408-W

Dept No: XXII

10
11 NOTICE OF ENTRY OF FINDINGS OF FACT,
12 CONCLUSIONS OF LAW AND ORDER

13 PLEASE TAKE NOTICE that on March 5, 2021, the court entered a decision or order in this matter, a
14 true and correct copy of which is attached to this notice.

15 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
16 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
17 mailed to you. This notice was mailed on March 10, 2021.

18 STEVEN D. GRIERSON, CLERK OF THE COURT

19 /s/ Amanda Hampton

20 Amanda Hampton, Deputy Clerk

21 CERTIFICATE OF E-SERVICE / MAILING

22 I hereby certify that on this 10 day of March 2021, I served a copy of this Notice of Entry on the
23 following:

24 ☒ By e-mail:

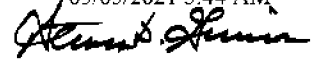
25 Clark County District Attorney's Office
26 Attorney General's Office – Appellate Division-

27 ☒ The United States mail addressed as follows:

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

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

FFCO

~~FCL~~

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
(C-16-314359-1)

DEPT NO: XXII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: February 4, 2021
TIME OF HEARING: 9:00 AM

THIS CAUSE having come on for hearing before the Honorable SUSAN JOHNSON, District Court Judge, on the 4th date of February, 2021, Petitioner not being present, IN PROPER PERSON, Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

STATEMENT OF THE CASE

On April 22, 2016, CRAIG RODGERS, aka Craig Allen Rodgers (hereinafter "Petitioner"), was charged by way of Information with BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B

1 Felony – NRS 200.481); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON
2 (Category B Felony – NRS 200.460); FIRST DEGREE KIDNAPPING WITH USE OF A
3 DEADLY WEAPON RESULTING IN BODILY HARM (Category A Felony – NRS 200.310,
4 200.320, 193.165); MAYHEM WITH USE OF A DEADLY WEAPON (Category B Felony
5 – NRS 200.280, 193.165); and ROBBERY (Category B Felony – NRS 200.230) for his actions
6 on or about March 6, 2015. On November 28, 2016, the State filed a Notice of Intent to Seek
7 Punishment as a Habitual Criminal.

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

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

20 On August 7, 2018, Petitioner filed a Motion to Appoint Alternate Counsel, wishing to
21 withdraw his guilty plea. On August 14, 2018, the Court granted Petitioner’s Motion, and
22 appointed Mr. John Parris, Esq. to review Petitioner’s case. Mr. Parris confirmed as counsel
23 on August 28, 2018. On September 6, 2018, the State advised the Court that it stipulated to
24 withdrawal of Petitioner’s guilty plea. The Court allowed Petitioner to withdraw his guilty
25 plea, and set the matter for trial.

26 On August 5, 2019, the State requested that the Second Amended Information be
27 stricken due to Petitioner’s withdrawal of his plea, and that the case proceed on the Amended
28 Information. The Court so ordered, and Petitioner’s case proceeded to jury trial. On August 6,

1 2019, Petitioner accepted a second set of plea negotiations, and the State filed anew a Second
2 Amended Information charging Petitioner with SECOND DEGREE KIDNAPPING
3 (Category B Felony – NRS 200.310, 200.330); ROBBERY (Category B Felony – NRS
4 200.230); MAYHEM (Category B Felony – NRS 200.380); and PANDERING (Category C
5 Felony – NRS 201.300.1). Petitioner executed a GPA memorializing the parties' agreement.

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

15 On September 24, 2019, Petitioner filed a Notice of Appeal. However, on November
16 25, 2019, the Nevada Supreme Court dismissed Petitioner's appeal as untimely. Remittitur
17 issued on December 26, 2019.

18 On August 31, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus
19 (Post-Conviction). That same day, he also filed an Ex Parte Motion for Appointment of
20 Counsel and Request for Evidentiary hearing. On October 27, 2020, this Court entered an
21 Order Denying Petitioner's Motion for Appointment of Counsel and Request for Evidentiary
22 Hearing. On December 31, 2020, the State filed its Response and Motion to Dismiss
23 Petitioner's instant Petition.

24 On January 7, 2021, this matter came before the Court, at which time the Court
25 continued the hearing for Petitioner to file a Reply and/or to arrange his appearance. On
26 February 4, 2021, this matter again came before the Court, at which time the Court noted that
27 Petitioner had failed to file a Reply, and had neglected to arrange his appearance in court;
28

thereafter, without hearing argument on the instant Petition, the Court made the following findings and conclusions:

ARGUMENT

I. PETITIONER'S INSTANT PETITION IS TIME-BARRED PURSUANT TO STATUTE

Pursuant to NRS 34.726(1), "a petition that challenges the validity of a judgment or sentence must be filed *within 1 year of the entry of the judgment of conviction...*" (Emphasis added). The Supreme Court of Nevada has held that NRS 34.726 should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998). "A timely direct appeal is one in which the notice of appeal is filed with the district court within the time period prescribed by statute." Id. at 1087, 967 P.2d at 1134. However, when no direct appeal has been taken, or when a defendant's *untimely* notices a direct appeal, "no 'appeal has been taken from the judgment' within the meaning of NRS 34.726(1) because nothing has actually happened." Id. Therefore, in such cases, the one-year time limit for filing for habeas relief begins to run from the date of the judgment of conviction. See id. at 1087, 967 P.2d at 1133-34.

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

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

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

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

9 In the instant case, Petitioner's Judgment of Conviction was filed on August 23, 2019.
10 Petitioner did not timely file a direct appeal. Therefore, this Court finds that, pursuant to NRS
11 34.726(1), Petitioner had until August 23, 2020, to timely file his petition for writ of habeas
12 corpus. The instant Petition was not filed until August 31, 2020, outside the one-year deadline
13 for a timely petition. As such, this Court concludes that Petitioner's instant Petition is subject
14 to dismissal as untimely, absent a showing of good cause and prejudice.

15 **II. PETITIONER FAILS TO DEMONSTRATE GOOD CAUSE TO OVERCOME** 16 **HIS PROCEDURAL DEFAULT**

17 To avoid procedural default, under NRS 34.726, a petitioner has the burden of pleading
18 and proving specific facts that demonstrate good cause for his failure to present his claim in
19 earlier proceedings or to otherwise comply with the statutory requirements, *and* that he will
20 be unduly prejudiced if the petition is dismissed. NRS 34.726(1)(a); see Hogan v. Warden,
21 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v. Nevada Dep't of Prisons, 104
22 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

23 "To establish good cause, appellants *must* show that an impediment external to the
24 defense prevented their compliance with the applicable procedural rule." Clem v. State, 119
25 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added); see Hathaway v. State, 119 Nev.
26 248, 251, 71 P.3d 503, 506 (2003); Pellegrini, 117 Nev. at 887, 34 P.3d at 537. "A qualifying
27 impediment might be shown where the factual or legal basis for a claim was not reasonably
28 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003).
The Court continued, "appellants cannot attempt to manufacture good cause[.]" Id. at 621, 81

1 P.3d at 526. Examples of good cause include interference by State officials and the previous
2 unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op. 19, 275 P.3d
3 91, 95 (2012). Clearly, any delay in the filing of the petition must not be the fault of the
4 petitioner. NRS 34.726(1)(a).

5 Petitioner does not recognize that his instant Petition is untimely, much less does he
6 address good cause for his failure to comply with the statutory deadline. See, Petition at 6
7 (answering “N/A” when asked if the petition is untimely). This Court finds that, because
8 Petitioner does not allege, much less demonstrate, good cause, Petitioner cannot overcome the
9 time-bar to his instant Petition. NRS 34.726(1)(a). Therefore, this Court concludes that
10 dismissal of the instant Petition is warranted.

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

14 In order to establish prejudice, the defendant must show “‘not merely that the errors of
15 [the proceedings] created possibility of prejudice, but that they worked to his actual and
16 substantial disadvantage, in affecting the state proceedings with error of constitutional
17 dimensions.’” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
18 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
19 must be a “substantial reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev.
20 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
21 1230 (1989)).

22 A proper petition for post-conviction relief must set forth specific factual allegations
23 that would entitle the petitioner to relief. NRS 34.735(6) states, in pertinent part, “[Petitioner]
24 must allege specific facts supporting the claims in the petition [he] file[s] seeking relief from
25 any conviction or sentence. Failure to raise specific facts rather than just conclusions may
26 cause the petition to be dismissed.” “Bare” and “naked” allegations are not sufficient to
27 warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
28 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “A claim is ‘belied’ when it is contradicted

1 or proven to be false by the record as it existed at the time the claim was made.” Mann v. State,
2 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

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

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

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

9 ...

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

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

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

16 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411
17 U.S. 258, 267, 93 S. Ct. 1602, 1608 (1973)). An entry of a guilty plea “waive[s] all
18 constitutional claims based on events occurring prior to the entry of the plea[], except those
19 involving voluntariness of the plea[] [itself].” Warden, Nevada State Prison v. Lyons, 100
20 Nev. 430, 431, 683 P.2d 505 (1984); see also Kirksey v. State, 112 Nev. 980, 999, 923 P.2d
21 1102, 1114 (1996) (“Where the defendant has pleaded guilty, the only claims that may be
22 raised thereafter are those involving the voluntariness of the plea itself and the effectiveness
23 of counsel.”). When a petitioner alleges ineffective assistance of counsel after pleading guilty,
24 the Nevada Court of Appeals recently held:

25 “a petitioner must allege specific facts demonstrating both that counsel’s advice
26 (or failure to give advice) regarding the guilty plea was objectively unreasonable
27 and that the deficiency affected the outcome of the plea negotiation process. Any
28 claim that does not satisfy this standard is outside the scope of permitted claims
and must be dismissed...Because events occurring after the entry of the plea
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).”

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

Furthermore, the Nevada Supreme Court has held that “challenges to the validity of a guilty plea and claims of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction proceedings.... [A]ll other claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be *considered waived in subsequent proceedings*.” Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added) (disapproved of on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). “A court must dismiss a habeas petition if it presents claims that either were or could have been presented in an earlier proceeding, unless the court finds both cause for failing to present the claims earlier or for raising them again and actual prejudice to the petitioner.” Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001), overruled on other grounds by Lisle v. State, 131 Nev. 356, 351 P.3d 725 (2015). Additionally, substantive claims are beyond the scope of habeas and waived. NRS 34.724(2)(a); see also Evans, 117 Nev. at 646-47, 29 P.3d 498 at 523; Franklin, 110 Nev. at 752, 877 P.2d 1058 at 1059.

Petitioner raises numerous claims for habeas relief. However, this Court finds that Petitioner’s claims are waived for his failure to raise them on direct appeal, are outside the scope of habeas review, are belied by the record, or are otherwise without merit; therefore, this Court concludes that Petitioner cannot demonstrate prejudice sufficient to overcome his procedural default.

A. Counsel’s failure to file a timely direct appeal

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

1 Furthermore, in the event Petitioner seeks to raise this claim to demonstrate good cause
2 for Petitioner's failure to timely file the instant Petition, this Court finds that such an effort
3 falls short because the substance of this claim is belied by the record. Petitioner alleges that
4 counsel was purposefully delinquent due to his "contentious relationship" with Petitioner.
5 Petition at 7-A:11-13. However, when executing the GPA, Petitioner affirmed that he was
6 satisfied with counsel's representations. See, GPA (filed on August 6, 2019) at 6:1-2.
7 Moreover, the United States Supreme Court has explained that defendants are not entitled to
8 any particular "relationship" with their counsel. Morris v. Slappy, 461 U.S. 1, 14, 103 S. Ct.
9 1610, 1617 (1983). Therefore, because Petitioner's claim is belied by the record, and further
10 unsupported by any evidence, this Court concludes that Petitioner's claim cannot constitute
11 good cause, much less demonstrate prejudice, to overcome Petitioner's untimeliness.
12 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

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

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

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

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

28 ///

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

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

9 Petitioner’s next claim alleges that plea counsel was ineffective for failing to raise a
10 direct appeal challenge to the effectiveness of Petitioner’s counsel at the preliminary hearing.
11 Petition at 9. This Court finds that this claim is outside the scope of habeas review, and that
12 Petitioner waived the substance of this claim by deciding to plead guilty.

13 Petitioner does not claim that plea counsel’s decisions on direct appeal could have
14 affected the voluntariness of Petitioner’s guilty plea. Petition at 9, 9-A. Nor does Petitioner
15 claim that plea counsel’s effectiveness regarding entry of Petitioner’s guilty plea was affected
16 by the issues plea-counsel briefed, or neglected to brief, in the untimely direct appeal effort.
17 Id. Therefore, this Court finds Petitioner’s claim is outside the scope of the instant habeas
18 review. Kirksey, 112 Nev. at 999, 923 P.2d at 1114. Thus, this Court concludes it cannot
19 demonstrate prejudice to overcome Petitioner’s timeliness.

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

27 ///

28 ///

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

2 Petitioner next alleges that plea counsel was ineffective upon the Court’s denial of
3 Petitioner’s attempt to return to Justice Court for a “new preliminary [hearing].” Petition at
4 10. However, this Court finds that Petitioner does not actually state any claims regarding plea
5 counsel’s ineffectiveness; instead, Petitioner argues only about the Court’s decision to deny
6 Petitioner’s motion for remand. Id. at 10, 10-A. Petitioner did not seek to appeal the Court’s
7 denial, nor did Petitioner seek a writ of mandamus regarding his efforts. Therefore, this Court
8 finds that Petitioner waived this claim by failing to pursue it before entering his guilty plea.
9 Evans, 117 Nev. at 646-47, 29 P.3d at 523. Moreover, this Court finds that Petitioner’s
10 substantive claim of district court error is expressly beyond the scope of habeas review. NRS
11 34.724(2)(a).

12 Because Petitioner waived this claim, and because it is beyond the scope of habeas
13 review, this Court concludes that Petitioner cannot demonstrate prejudice from this Court’s
14 dismissal of Petitioner’s claim as untimely.

15 **E. Counsel’s alleged withholding of information before Petitioner’s guilty plea**

16 Petitioner next asserts that plea counsel withheld information from Petitioner in order
17 to induce Petitioner’s guilty plea. Petition at 11. This Court finds that Petitioner’s claim is
18 based entirely on references to Petitioner’s self-serving letter to the Court. See id. at 11:6-17,
19 22-27. As such, this Court concludes Petitioner’s claim is bare and naked, and suitable only
20 for dismissal under Hargrove. 100 Nev. at 502, 686 P.2d at 225.

21 Moreover, this Court finds that Petitioner’s self-serving allegations are belied by the
22 record. Petitioner, upon executing the GPA, specifically affirmed the voluntariness of his plea,
23 asserting: “I believe that pleading guilty and accepting this plea bargain is in my best interest,
24 and that a trial would be contrary to my best interest.” GPA at 5. Further, the Court’s
25 withdrawal of the material witness warrant does not demonstrate that plea counsel was
26 misinformed; pursuant to NRS 178.494, the witness could have been in custody on that
27 warrant, and the withdrawal of such warrant would result in the release of that witness. As
28 such, Petitioner’s claim is belied by the record, and this Court concludes it is suitable for

1 dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Furthermore, this Court finds that the
2 mere reference to a warrant is *not* a “specific factual allegation” that demonstrates counsel
3 misled Petitioner as to the availability of a witness. See Gonzalez, 136 Nev. Adv. Op. 60, 476
4 P.3d at 90.

5 Because Petitioner’s claim is bare and naked, and further belied by the record, this
6 Court concludes that this claim fails to demonstrate prejudice sufficient to overcome
7 Petitioner’s procedural default.

8 **F. Counsel’s alleged misleading Petitioner regarding the defense expert’s**
9 **availability for trial**

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

19 Because Petitioner has failed to plead specific facts that, if true, would entitle Petitioner
20 to relief, this Court concludes that Petitioner cannot demonstrate that he will be prejudiced by
21 this Court’s dismissal of this claim as untimely.

22 **G. District Court’s denial of Petitioner’s attempt to withdraw guilty plea**

23 Petitioner next makes a derivative claim based on his earlier arguments about being
24 misled by counsel, arguing that the Court erred by denying his post-sentence attempt to
25 withdraw his guilty plea. Petition at 13. Petitioner, again, relies on his letter to the Court,
26 without any further substantiation of his claim. See id. However, as stated *supra.*, this Court
27 has concluded that the claims from which this claim is derived are themselves bare and naked;
28

1 therefore, this Court likewise concludes that Petitioner's instant derivative claim cannot
2 provide a basis for relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225; NRS 34.735(6).

3 Petitioner also seems to allege that he did not have an opportunity to review his PSI,
4 despite the PSI being prepared nearly one (1) year prior to Petitioner's sentencing. Petition at
5 13. However, this Court finds that such a proposition is belied by the record. Upon accepting
6 Petitioner's guilty plea, and sentencing Petitioner, the Court retained jurisdiction to consider
7 restitution as well as to address any Stockmeier issues in the PSI. See, Court Minutes, dated
8 August 6, 2019, at 2. Thereafter, on August 20, 2019, the Court conducted a hearing
9 specifically to address both restitution and Petitioner's PSI. See, Court Minutes, dated August
10 20, 2019. As such, Petitioner was given two (2) weeks to review and raise any issues found
11 within his PSI before his conviction became final on August 23, 2019. Because Petitioner's
12 PSI allegations are belied by the record, this Court concludes that they cannot form grounds
13 for relief under Hargrove. 100 Nev. at 502, 686 P.2d at 225.

14 Because Petitioner's claim is derivative of other claims that likewise cannot form a
15 basis for finding prejudice, and because it includes allegations that are belied by the record,
16 this Court concludes that Petitioner cannot demonstrate prejudice sufficient to overcome
17 Petitioner's untimeliness.

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

19 Petitioner finally claims that the State failed to comply with the terms of the GPA
20 because the GPA contemplated a charge that was originally raised in a separate criminal case.
21 Petition at 14. This Court finds that this claim is outside the scope of the instant habeas review.
22 Further, this Court finds that the factual basis for the inclusion of the single charge belies
23 Petitioner's claim.

24 This Court finds that Petitioner's final claim does not relate to the voluntariness of
25 Petitioner's plea, nor does it allege ineffective assistance of plea counsel. See Petition at 14,
26 14-A. Therefore, this Court concludes that this claim is not properly before this Court and is
27 subject to dismissal. Kirksey, 112 Nev. at 999, 923 P.2d at 1114.

28 ///

1 Furthermore, this Court finds that the record belies Petitioner's claim that he was
2 unaware that the State's dismissal of the separate case would not include the single charge
3 included in the Second Amended Information. See Petition at 14:11-13. Upon executing the
4 Guilty Plea Agreement (which incorporated the Second Amended Information by reference),
5 Petitioner expressly agreed to plead guilty to Pandering. GPA at 1:19. Petitioner further
6 affirmed the voluntariness of his decision, explaining:

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

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

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

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

15 GPA at 5:7-14 (emphasis added). Further, the Second Amended Information was included as
16 "Exhibit 1" to Petitioner's GPA. Finally, this Court finds that the Court Minutes reflect that
17 the Court canvassed Petitioner regarding the entry of his guilty plea, which included the
18 Pandering charge. See, Court Minutes, dated August 6, 2019. Therefore, this Court finds that
19 Petitioner was aware at the time he executed the GPA that the State would be including the
20 single charge from the separate case; he was likewise aware, therefore, that the State's
21 agreement to dismiss the separate case would clearly be a reference to the remaining claims
22 charged in that case. See GPA at 1:25-26. As such, this Court concludes that Petitioner's claim
23 is belied by the record and is suitable only for dismissal. Hargrove, 100 Nev. at 502, 686 P.2d
24 at 225.

25 Because Petitioner's claim is outside the scope of the instant habeas review, and
26 because it is belied by the record, this Court concludes that Petitioner's claim cannot
27 demonstrate prejudice sufficient to overcome the procedural bar to Petitioner's instant Petition.

28 ///

///

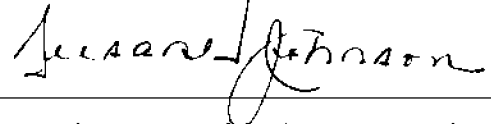
///

1 **ORDER**

2 Therefore, COURT ORDERED, the State's Motion to Dismiss Petitioner Craig
3 Rodger's Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and is, GRANTED.

4 Furthermore, COURT ORDERED, Petitioner's instant Petition shall be, and is
5 DENIED.

6 Dated this 5th day of March, 2021

7 

8
9 The Honorable Susan H. Johnson

10 FB8 317 46D0 811F
11 Susan Johnson
12 District Court Judge

13 Respectfully submitted,

14 STEVEN B. WOLFSON
15 Clark County District Attorney
Nevada Bar #001565

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

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Craig Rodgers, Plaintiff(s)

CASE NO: A-20-820408-W

7 vs.

DEPT. NO. Department 22

8 William Hutchings Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 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.
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1 Craig Rodgers
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

FILED
MAR 15 2021
Clerk of Court

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

9 Craig Rodgers

10 Plaintiff,

11 vs. William Hutchinson, Warden,
12 State of Nevada

13 Defendant.

Case No. A-20-820408-W

Dept. No. 22

Docket _____

16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 Craig Rodgers, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 Petition for writ of Habeas Corpus

22 _____
23 FILED on the 4th day of February, 2021.

Dated this 2nd day of March, 2021.

Respectfully Submitted,

[Signature]

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SAW WOLFEN
2007-10-16
1-10 WOLFEN, 1-10 WOLFEN

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-20-82043-B-2

☒ 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.

Charles Rodger
Signature

3-3-21
Date

Charles Rodger
Print Name

Title

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

STEVEN GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3rd Floor
Las Vegas NV 89155-1160

B/S #
271170



Craig Rodgers, 122/8/11
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

FILED
MAR 15 2021
[Signature]
CLERK OF COURT

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

Craig Rodgers
Plaintiff,
vs.
William Hutchins, Warden
State of Nevada
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 2nd day of March, 2021.

RESPECTFULLY SUBMITTED BY:

[Signature]
Craig Rodgers # 122/8/11
Plaintiff/In Propria Persona

1 Craig Rodgers #7221816
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

FILED
MAR 17 2021

John L. Blum
CLERK OF COURT

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

9 Craig Rodgers
10 Plaintiff,
11 vs.
12 William Hutchings Warden,
13 State of Nevada
14 Defendant.

Case No. A-20-820408-W
Dept. No. 22
Docket _____

16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 Craig Rodgers, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 PETITION for writ of Habeas Corpus (Post-conviction)

22 _____
23 ruled on the 4th day of February, 2021.

24 _____
25 Dated this 25th day of February, 20 21.

26 Respectfully Submitted.

27 am Nov

RECEIVED

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 25th day of February, 2021, 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 Grierson

Clerk of the Court

200 Lewis Ave

Las Vegas NV 89155-1160

Steve Woffson

District Attorney

200 Lewis Ave

Las Vegas NV 89155-2212

Aaron Ford

Attorney General

Carson City NV 89701-4717

CC:FILE

DATED: this 25 day of February, 2021.

Craig Rodgers

Craig Rodgers

#1221811

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.

Amy Rodgers
Signature

2-25-21
Date

Amy Rodgers
Print Name

Title

CLARK COUNTY
#1221316

P.O. Box 222
Indian Springs NV 89407

STEVEN ERICSON
Clerk of the Court
800 Lewis Ave, 3rd Floor
LAS Vegas, NV 89155-1160

Craig Rodgers #1221816
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

FILED
MAR 17 2021
John J. Blum
CLERK OF COURT

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

Craig Rodgers
Plaintiff,
vs.
William Hutchings Warden
State of Nevada
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 25th day of February, 2021.

RESPECTFULLY SUBMITTED BY:

Craig Rodgers
Craig Rodgers #1221816
Plaintiff/In Propria Persona



1 ASTA

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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; STEVEN B.
14 WOLFSON, DISTRICT ATTORNEY; STATE OF
NEVADA,

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

28 Counsel:

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

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

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

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

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

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

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

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

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

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79714, 81533, 82108

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 18 day of March 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Craig Rodgers



1 ASTA

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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; STEVEN B.
14 WOLFSON, DISTRICT ATTORNEY; STATE OF
NEVADA,

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

28 Counsel:

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

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

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

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

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

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

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

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

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

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79714, 81533, 82108

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 18 day of March 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Craig Rodgers

Electronically Filed
03/29/2021

Alvin D. Linn
CLERK OF THE COURT

1 CODE: 3860

2 Name: Craig Rodgers

3 Address: P.O. BOX 208
Indian Springs NV 89070

4 Telephone: _____

Acting in Proper Person

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

9
10 Craig Rodgers

11 Plaintiff (Petitioner),

Case No. A-20-820408

12 vs.

13 William Hutchings, Warden
State of Nevada

Dept. No. 22

14 Defendant (Respondent).

15 "Hearings requested"

16 **REQUEST FOR SUBMISSION**

17 I, Craig Rodgers

, acting in Proper Person, request that the

18 Motion For reconsideration & rehearing filed on _____

19 be submitted to the Court for consideration and determination.

20 I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

21 DATE: 2-10-21

22 *Craig Rodgers*
(Signature)

23 Craig Rodgers
(Name)

24 P.O. Box 208
(Address)

25 Indian Springs NV 89070

26 _____
(Telephone Number)

27 RECEIVED

MAR 23 2021

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 10th
day of February, 2021, I mailed a true and correct copy of the foregoing, "Motion for
reconsideration & rehearing for 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 Grierson
Clerk of the Court
200 Lewis Ave, 3rd Floor
Las Vegas NV 89155-1160

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

William Hutchins
Warden, SNCC
20825 Cold Creek Road
Indian Springs NV 89070

CC:FILE

DATED: this 10 day of February, 2021.

Craig Rodgers # 1221814
/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 for

reconsideration & rehearing of petition for writ of habeas corpus
(Title of Document)

filed in District Court Case number A-20-820768-2

☒ 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

2-10-21
Date

CRAIG Rodgers
Print Name

Title

Craig Rodgers ID NO. 1221816

SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89070

File Stamp
copy requested
Electronically Filed
03/29/2021

Heather Stinson
CLERK OF THE COURT

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
State of Nevada
respondent

Hearings Requested

CASE NO.: A-20-820408

DEPT. NO.: 22

DOCKET: _____

"Hearings requested"

MOTION For reconsideration & rehearing
For writ of Habeas corpus

COMES NOW, Petitioner, Craig Rodgers, herein above respectfully
moves this Honorable Court for an MOTION For reconsideration
& rehearing For writ of Habeas corpus

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

DATED: this 10th day of February, 2021

BY: Craig Rodgers

Carina # 1221816
Defendant In Proper Personam

RECEIVED

MAR 23 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

1 ON January 7th this court ordered Mr. Rodgers to
2 Either Reply to the State's Response OR to Arrange his
3 appearance for the next court date, so then petitioner
4 did not receive the State's response until 01/22/21
5 See exhibit "A" way past the 45 days that you ordered
6 respondent to respond to this court order on September 9th,
7 2020 with the provisions of NRS 34.360 to 34.830, inclusive.
8 I also sent a "motion and order for transportation of inmate
9 for court appearance and it was received by the court on
10 January 25th and it says filed on February 4th, 2020 See
11 Exhibit "B", and then I also did what this court said to do
12 by sending in a Response to the State's and a opposition
13 to the State's motion to dismiss Petition for writ of
14 Habeas corpus that should also be in the record that
15 Petitioner has made several attempts to Arrange my
16 appearance at both court hearings, so had the district
17 court granted my motion and ordered me to be transported
18 to court, I would of been there See exhibit "B". Also on January
19 7th, 2021 I received a Letter from "Eli Johnson" that was
20 John Parris Private investigation saying my appeal
21 is being handled by Attorney "Julian Gregory" and I list
22 his phone Number and address but every time I have called
23 that Number nobody has answered the phone. See exhibit "C".
24 Next my response to the State was sent to the district court
25 on January 25th, a couple days after I received the State's
26 response so it should be on record that petitioner did
27 do everything this court requested him to do at which

1 petitioner also wrote a letter to MS. COOK at S.B.C.
2 whose telephone number is 725-216-6500 Ext 66411 Since
3 she is the person that makes transportation and schedules
4 video court appearances so that also my proof that
5 I tried to do everything that was requested of me to
6 do to appear for court so you can call and also speak
7 with Sgt. Tate because I filled out a Emergency Grievance
8 so Sgt. Tate made a incident report about me not being
9 scheduled for court. So in asking this court to
10 please grant my motion for reconsideration and
11 rehearing for writ of habeas corpus so I can make
12 a oral arguments since this is my only chance to have
13 my case reviewed because Mr. Parnis did not file
14 a timely direct Appeal which has deprived petitioner
15 his constitutional right. And any alleged delay was not
16 the petitioner's fault and dismissal of the petition as untimely would
17 unduly prejudice the petitioner "NRS 34.226, and that failure to
18 consider the claims would result in a fundamental miscarriage
19 of justice" *Pellegrini v. State* 117 Nev. 820, 34 P.3d 519 (2001). And
20 since an appeal-deprivation claim may provide good cause to excuse any alleged
21 delay in filing a postconviction petition If the petitioner (1) asked counsel to file
22 an appeal, (2) Reasonably believed that counsel had filed an appeal, and (3) filed
23 the petition within a reasonable time after learning that a direct appeal had
24 not been timely filed "Hartman v. State, 119 Nev. 248, 71 P.3d 503 (2003).

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 10th day of February, 2021, I mailed a true and correct copy of the foregoing, "Motion for reconsideration & rehearing for 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. GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS NV 89155-1400

Steve Wolfson
District Attorney
200 LEWIS AVE
LAS VEGAS, NV 89155

William Hutchings
Warden SDC
20825 Cold Creek Road
Indian Springs, NV 89070-0001

CC:FILE

DATED: this 10 day of February, 2021.

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 For

Reconsideration & Petition for Petition of Writ of 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.

Craig Rodger
Signature

2-10-21
Date

Craig Rodger
Print Name

Title

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Exhibit "A"

NEVADA DEPARTMENT OF CORRECTIONS

LEGAL MAIL

NAME: Rodgers, Craig DOC#: 1221816 UNIT: U12 B 3 U

REPORT TO CONTROL AT ADMIN FOR THE FOLLOWING:

LEGAL MAIL: Office of the District Attorney

CERTIFIED MAIL: _____

REGISTERED MAIL: _____

DATE: 11/22/21

OFFICER: _____

INMATE SIGNATURE: Craig Rodgers

DOC#: 1221816

DATE: 12-2-21

DOC-3020 (REV. 7/01)

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Exhibit "B"

File Stamp 23
copy requested

Electronically Filed
02/04/2021

Heather J. Smith
CLERK OF THE COURT

1 Craig Rodgers

2 NDOC No. 122184

4 In proper person

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

10 Craig Rodgers

12 Petitioner,

13 v.

14 Case No. A-20-8204082

15 William Hutchings, Warden
16 Steven B. Wolfson
State of Nevada

17 Dept. No. 22

18 Respondent.)

20 MOTION AND ORDER FOR TRANSPORTATION
21 OF INMATE FOR COURT APPEARANCE

25 Petitioner, CRAIG Rodgers, proceeding pro se, requests

26 that this Honorable Court order transportation for his personal appearance ~~or, in the~~
27 ~~event that he is unable to appear by telephone, that he be made available to appear by telephone at the hearing in the instant case that is scheduled for~~
28 at 9:00AM.
29

RECEIVED
JAN 25 2021

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:

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 Gebbers 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 725-216-6500 Ext 66411

13
14 Dated this 13 day of JANUARY, 2021

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16 Craig Rodgers #122184

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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 GRIENSON
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 89155-2012

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 _____

STANLEY, Andrew J. 1/21/81
P.O. Box 208
JAN 21 1981
SAN JOSE, CA 95131

773
1/21/81

STEVEN D. HENSON
CLERK OF THE COURT
DEPT. OF CORRECTIONS
LAS VEGAS, NV

RECEIVED
JAN 21 1981
CLERK OF THE COURT

POSTAGE
PAID
PERMIT NO. 100
SAN JOSE, CA 95131

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Exhibit C



Elia Johnson
702-704-5933

eliainvestigator@gmail.com

Mr. Rogers,

Per John Parris, the attorney handling your appeal is Attorney Julian Gregory. His office address is 411 S. 6th St. Las Vegas, NV 89101. His office phone number is 702-625-1183.

P.O. BOX 11293, Reno, NV 89510
TEL: 800-660-8177 FAX 888-536-8477

Nevada License # 830/830A/830B/830C
California License # R/A 1566 PI#126637

Contact Us 800-680-8177 or Info@zaneinvestigations.com

H426

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1 5.00
6.00
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33.00

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31.00

SOUTHERN DESERT
CORRECTIONAL CENTER
JAN 07 2021
INCOMING MAIL

LEGAL



P.O. Box 11293
Reno, NV 89510
800-660-8177
NV 630, CA R/A 1668
OR CA49663 AZ 1627691

LAS VEGAS NV 890
30 DEC 2020 PM 5 L

SPCC

12034

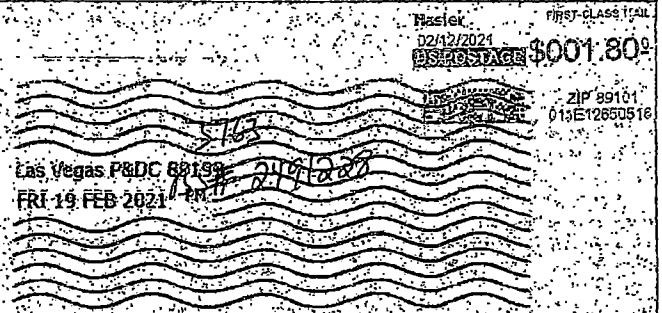
CRAIG RODGERS # 1221816
HIGHT DESERT STATE PRISON
22010 COLD CREEK RD.
INDIAN SPRINGS, NV 89070

89070-



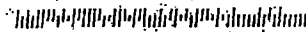
V

CAA 6 RODGERS #1221316
P.O. Box 208
Indian Springs NV 89070



STEVEN GRIFFIN
Clerk of the Court
200 Lewis Ave, 3rd Floor
LAS VEGAS, NV 89155

RECEIVED
FEB 23 2021
CLERK OF THE COURT



OUTSIDE UNIT

C.M. & ADGENS #1221816
P.O. Box 208
Indian Springs NV 89070



STEVEN GRIERSON
CLERK OF THE COURT
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160

RECEIVED
MAR 23 2021
CLERK OF THE COURT

OK
2491121

ZIP 89101
011E 565356

First-class MAIL
08/17/2021
USPS TRACK \$001.80

Thomas J. Linn
CLERK OF THE COURT

File Stamp
copy request

Craig Rodgers #1221816
/ In Propria Personam
Post Office Box 208 S.D.C.C.
Indian Springs, Nevada 89018

DISTRICT COURT
CLARK COUNTY, NEVADA

Craig Rodgers

HEARING requested

VS.

William Hutchings, warden
State of Nevada

Case No. *A-20-820408*

Dept No. *22*

Docket _____

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE, that _____

will come on for hearing before the above-entitled Court on the _____ day of _____, 20____,
at the hour of _____ o'clock _____ M. In Department _____, of said Court.

CC:FILE

DATED: this *10th* day of *February*, 20____.

BY: *am*
Craig Rodgers #1221816
/In Propria Personam

RECEIVED

MAR 23 2021

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
3/29/2021 9:50 AM
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 Reconsideration & Rehearing for Writ of Habeas Corpus in the above-entitled matter is set for hearing as follows:

Date: April 29, 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/ 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

27
LEFT SIDE
OF FILE PLEASE

1 IN THE 9th 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)

Case No. A-20-820408-2

10 William Hutchings, warden,

11 State of Nevada

Dept. No. 22
12)
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

APR 13 2021

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. _____

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12. _____
13. District Court Judge
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Steven S. Shuman
CLERK OF THE COURT

Craig Rodgers
NDOC No. 1221816

In proper person

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

CRAIG Rodgers)
)
Petitioner,)
v.)
)
William Hutchins Warden,)
State of Nevada)
Respondent.)

Case No. A-20-880408-2W

Dept. No. 22

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

Petitioner, CRAIG Rodgers, proceeding pro se, requests
that this Honorable Court order transportation for his personal appearance or, in the
alternative, that he be made available to appear by telephone or by video conference
at the hearing in the instant case that is scheduled for April 29th
at 9:00 AM.

RECEIVED

APR 28 2021

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:

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: S. D. C. C.
12 whose telephone number is 725-216-6500 EXT 66411

13
14 Dated this 2nd day of April, 2021.

15
16 CRAIG RADGEC #1221816

17
18
19 Craig Radgec
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28
29

CERTIFICATE OF SERVICE BY MAILING

I, CRAIG Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 2nd
day of April, 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 Grienson
CLERK of the Court
200 Lewis Ave, 3rd Floor
Las Vegas, NV 89155

William Hutchings
Warden
20825 Coldcreek Road
Indian Springs, NV 89070

Steve Wolfson
200 Lewis Ave
Las Vegas, NV 89155-2212

CC:FILE

DATED: this 2nd day of April, 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-20-720408-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

4-2-2021
Date

Craig Rodgers
Print Name

Title



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CRAIG ALLEN RODGERS,
#1680324

Petitioner,

-vs-

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

Respondents.

CASE NO: **A-20-820408-W**
(C-16-314359-001)

DEPT NO: **XXII**

STATE'S OPPOSITION TO MOTION FOR RECONSIDERATION

DATE OF HEARING: **APRIL 29, 2021**
TIME OF HEARING: **9:00 AM**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in this State's Opposition to Petitioner's Motion for Reconsideration.

This Opposition 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.

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

28 //

1 On January 7, 2021, this matter came before the Court, at which time the Court
2 continued the hearing for Petitioner to file a Reply and/or to arrange his appearance. On
3 February 4, 2021, this matter again came before the Court, at which time the Court noted that
4 Petitioner had failed to file a Reply, and had neglected to arrange his appearance in court. The
5 Court, at that hearing, denied Petitioner's Petition and granted the State's Motion to Dismiss.
6 The Court's Findings of Fact, Conclusions of Law and Order were filed on March 5, 2021.
7 Entry of that Order was noticed on March 10, 2021.

8 On March 15, 2021, and again on March 17, 2021, Petitioner noticed his appeal from
9 the Court's denial of his Petition.

10 On March 29, 2021, Petitioner filed the instant "Motion for Reconsideration &
11 Rehearing for Writ of Habeas Corpus" (his "Motion for Reconsideration").

12 **STATEMENT OF FACTS**

13 The Court relied on the following factual synopsis when sentencing
14 Petitioner:

15 On March 6, 2015, officers were dispatched in reference to a
16 person stabbed call. When they arrived, they made contact with the
17 victim; she had gotten off work and the defendant, Craig Rodgers aka
18 Craig Allen Rodgers, asked her if she needed a ride home. The victim
19 knew Mr. Rodgers through a mutual friend so she entered Mr.
20 Rodgers' car and he drove her home. When they arrived, Mr. Rodgers
21 told the victim to give him all of her money. While she attempted to
22 exit the vehicle, Mr. Rodgers became violent and started hitting her
23 and grabbing her purse. Mr. Rodgers took \$500 and the victim's cell
24 phone. The fight became more violent and the victim sustained a large
25 laceration to her ear which was bleeding profusely.

26 After getting the money, Mr. Rodgers exited the car and pulled
27 the victim from the car down to the ground and fled the scene. While
28 driving away, Mr. Rodgers threw the victim's purse, duffle bag, and
cell phone from the vehicle. The victim was transported to the hospital
where she received nine stitches to her left ear as a result of the
incident.

29 Presentence Investigation Report at 6.

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1 **CONCLUSION**

2 Because this Court is without jurisdiction to entertain the instant Motion for
3 Reconsideration, the State respectfully requests that this Court DENY Petitioner's Motion for
4 Reconsideration in its entirety.¹

5 DATED this 26th day of April, 2021.

6 Respectfully submitted,

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

10 BY /s/ Karen Mishler
11 KAREN MISHLER
12 Chief Deputy District Attorney
13 Nevada Bar #013730
14
15

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that service of the above and foregoing was made this 26th day of
18 APRIL 2021, to:

19 CRAIG RODGERS, BAC#1221816
20 S.D.C.C.
21 P.O. BOX 208
22 INDIAN SPRINGS, NV 89070

23 BY /s/ Howard Conrad
24 Secretary for the District Attorney's Office
25 Special Victims Unit

26 hjc/SVU
27

28 ¹ See *Foster*, 126 Nev. at 52-53, 228 P.3d at 455 (courts maintain jurisdiction to *deny* motions, but lack jurisdiction to grant the same).



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730
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

(C-16-314359-1)

DEPT NO: XXII

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DATE OF HEARING: April 29, 2021

TIME OF HEARING: 9:00 AM

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This Opposition 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.

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21 Request for Evidentiary hearing. On October 27, 2020, this Court entered an Order Denying
22 Petitioner's Motion for Appointment of Counsel and Request for Evidentiary Hearing. On
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28 Court, at that hearing, denied Petitioner's Petition and granted the State's Motion to Dismiss.

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3 On March 15, 2021, and again on March 17, 2021, Petitioner noticed his appeal from
4 the Court's denial of his Petition.

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6 Rehearing for Writ of Habeas Corpus" (his "Motion for Reconsideration").

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8 The Court relied on the following factual synopsis when sentencing Petitioner:

9 On March 6, 2015, officers were dispatched in reference to a person
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16 her and grabbing her purse. Mr. Rodgers took \$500 and the victim's cell phone.
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18 ear which was bleeding profusely.

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16 from the car down to the ground and fled the scene. While driving away, Mr.
17 Rodgers threw the victim's purse, duffle bag, and cell phone from the vehicle.
18 The victim was transported to the hospital where she received nine stitches to
19 her left ear as a result of the incident.

18 Presentence Investigation Report at 6.

19 ARGUMENT

20 Petitioner seeks reconsideration of the Court's denial and dismissal of Petitioner's
21 habeas petition. See Motion for Reconsideration at 4. However, Petitioner fails to appreciate
22 that, by filing an appeal, Petitioner has divested this Court of jurisdiction to entertain a motion
23 for reconsideration.

24 The Nevada Supreme Court has determined, "[j]urisdiction in an appeal is vested *solely*
25 in the supreme court until the remittitur issues to the district court." Buffington v. State, 110
26 Nev. 124, 126, 868 P.2d 643, 644 (1994) (emphasis added). Therefore, while an appeal is
27 pending, district courts lack jurisdiction over a case. Id. Indeed, only a remittitur will return
28 jurisdiction from an appellate court to the district court. See NRS 177.035 ("After the

1 certificate of judgment has been remitted, the appellate court of competent jurisdiction shall
2 have no further jurisdiction of the appeal or of the proceedings thereon, and all orders which
3 may be necessary to carry the judgment into effect shall be made by the court to which the
4 certificate is remitted.”). The Nevada Supreme Court “has repeatedly held that the timely filing
5 of a notice of appeal ‘divests the district court of jurisdiction to act and vests jurisdiction in
6 [the appellate] court.’” Foster v. Dingwall, 126 Nev. 49, 52, 228 P.3d 453, 454-55 (2010)
7 (quoting Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529 (2006)).

8 As stated *supra*, Petitioner noticed his appeal on March 15, 2021, and again on March
9 17, 2021. Therefore, Petitioner effectively divested this Court of jurisdiction to consider
10 Petitioner’s contentions in his Motion for Reconsideration. Foster, 126 Nev. at 52, 228 P.3d
11 at 454-55. As such, the State respectfully submits that this Court is without jurisdiction to
12 entertain Petitioner’s Motion for Reconsideration, much less grant Petitioner the relief
13 Petitioner seeks.

14 CONCLUSION

15 Because this Court is without jurisdiction to entertain the instant Motion for
16 Reconsideration, the State respectfully requests that this Court DENY Petitioner’s Motion for
17 Reconsideration in its entirety.¹

18 DATED this 27th day of April, 2021.

19 Respectfully submitted,

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

23 BY /s/ KAREN MISHLER
24 KAREN MISHLER
25 Chief Deputy District Attorney
26 Nevada Bar #13730
27

28 ¹ See Foster, 126 Nev. at 52-53, 228 P.3d at 455 (courts maintain jurisdiction to *deny* motions, but lack jurisdiction to grant the same).

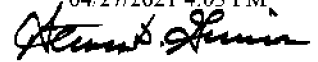
CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 27th day of April, 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CRAIG ALLEN RODGERS, BAC #1221816
SOUTHERN DISTRICT CORRECTIONAL CENTER
P. O. BOX 208
INDIAN SPRINGS, NEVADA 89070-0208

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

15F03939X/jg/jh/SVU


CLERK OF THE COURT

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 RECONSIDERATION AND
REHEARING FOR WRIT OF HABEAS CORPUS**

This matter concerning Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus filed March 29, 2021¹ came, *in chambers*, to the attention of Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, in preparation of its April 29, 2021 motion calendar. Having reviewed the papers and pleadings on file herein and found good cause therefore, this Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AND PROCEDURAL HISTORY

1. As already set forth within this Court's Findings of Fact, Conclusions of Law and Order filed March 5, 2021, Petitioner CRAIG RODGERS pled guilty to committing the following crimes: Count 1: Second Degree Kidnaping; Count 2: Robbery; Count 3: Mayhem; and Count 4: Pandering. *See State v. Rodgers*, C-16-314359-1, filed in the Eighth Judicial District Court, in and for Clark County, Nevada. MR. RODGERS was adjudged guilty of committing all these crimes,

¹A substantially similar, if not identical motion was filed March 8, 2021, but such did not come to this Court's attention until a Notice of Hearing was filed contemporaneously with the March 29, 2021 filing.

1 and he was sentenced to serve, *inter alia*, a total aggregate sentence of seventy-two (72) to two
2 hundred forty (24) months, in the Nevada Department of Corrections. The Judgment of Conviction
3 was filed on August 23, 2019.

4 2. MR. RODGERS filed his Notice of Appeal on September 24, 2019. On November
5 25, 2019, the Nevada Supreme Court dismissed MR. RODGERS' appeal as untimely, and remittitur
6 was thereafter issued on December 26, 2019.

7
8 3. MR. RODGERS thereafter filed his Petition for Writ of Habeas Corpus in this case,
9 Rodgers v. Hutchings, A-20-82408-W, on August 31, 2020. This Court then scheduled this matter
10 for hearing on January 7, 2021 at 9:00 a.m. While this Court denied MR. RODGERS' two motions
11 to appoint counsel on October 27, 2020 and December 21, 2020 (Minute Order), respectively, it also
12 granted MR. RODGERS' request to appear telephonically at the January 7, 2021 hearing in its
13 October 27, 2020 Order.

14
15 4. The STATE OF NEVADA filed and served, via regular mail, its Response and
16 Motion to Dismiss Petition for Writ of Habeas Corpus on December 31, 2020. Therein, the STATE
17 argued, *first*, MR. RODGERS' Petition for Writ of Habeas Corpus is time-barred as it was brought
18 over a year after the Judgment of Conviction was filed August 23, 2020. *Second*, MR. RODGERS
19 failed to show good cause to overcome the procedural default. *Third*, MR. RODGERS could not
20 show unfair prejudice as his individual claims fall outside the scope of habeas review or otherwise
21 lacked merit.

22
23 5. At the January 7, 2021 hearing, this Court continued the matter to February 4, 2021
24 allowing MR. RODGERS time to respond and/or appear at that hearing via telephone. MR.
25 RODGERS was accorded a copy of the Minutes of the Court's January 7, 2021 hearing.

26
27 6. By letter directed to the Court dated January 8, 2021, MR. RODGERS confirmed he
28 received the Minutes of the Court's January 7, 2021 hearing, was aware of the continuance to

1 February 4, 2021, but he also indicated he had not received the STATE'S Response served
2 December 31, 2020.² Accordingly, the STATE served MR. RODGERS another copy of its
3 Response and Motion on January 19, 2021.

4 7. At the February 4, 2021 hearing, this Court noted there was nothing in the record to
5 reflect MR. RODGERS had either filed a response or made attempts to attend the hearing via
6 telephone or video-conference. There was no record he had requested an extension of time to file a
7 response or make further attempts to attend the hearing via telephone or video-conference.
8 Accordingly, the Court denied MR. RODGERS' Petition for Writ of Mandamus and granted the
9 STATE'S Motion to Dismiss at the February 4, 2021 hearing given the arguments set forth. *See*
10 Findings of Fact, Conclusions of Law and Order filed March 5, 2021; notice of entry of the March 5,
11 2021 Order was filed five days later.
12

13 8. MR. RODGERS now moves this Court to reconsider its March 5, 2021 decision as he
14 claims he did not receive the STATE'S Response until January 22, 2021. He also argues he moved
15 the Court to transport him to the Court for that hearing; such was received by the "Clerk of the
16 Court" on January 25, 2021, but, for some unknown reason, it was not filed in this Court's record
17 until February 4, 2021. MR. RODGERS also claims he sent a "kite" to "Ms. Cook at SDCC" to
18 make arrangement for his transportation to the Court and schedule video court appearances--doing
19 all he could that was requested. The STATE opposes, arguing MR. RODGERS filed his Notice of
20 Appeal on March 17, 2021 which divested this Court of jurisdiction to hear the Motion for
21 Reconsideration and Rehearing for Writ of Habeas Corpus filed March 29, 2021.
22

23 ...
24

25 ...
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27 _____
28 ²See filing of January 13, 2021; *also see* Certificate of Mailing attached to the STATE'S Response and Motion
to Dismiss Petition for Writ of Habeas Corpus filed December 31, 2020.

CONCLUSIONS OF LAW

Rule 2.24 of the Eighth Judicial District Court Rules (EDCR) states as follows with respect to rehearing of motions:

(a) No motion once heard and disposed of any be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(b) A party seeking reconsideration of a ruling of the court, other than any order which may be addressed by motion pursuant to NRCP 50(b), 52(b), 59 or 60, must file a motion for such relief within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the 30 day period for filing a notice of appeal from a final order or judgment.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

2. Rule 60(b) of the Nevada Rules of Civil Procedure (NRCP) provides the grounds for relief from final judgment, order or proceeding. It states in pertinent part:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
 - (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
 - (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
 - (4) the judgment is void;
 - (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospective is no longer equitable;
- or
- (6) any other reason that justifies relief.

3. The evident object of NRCP 60(b) is to relieve a party from the effects of some judgment or order made by the court in its regular proceedings, not to give a party some affirmative right which he has lost by his own conduct, but in regard to which the court has made no order whatever. Killip v. Empire Mill Co., 2 Nev. 34 (1866).

4. As set forth previously, MR. RODGERS moves this Court to reconsider this matter as he allegedly did not receive the STATE'S Response until January 22, 2021 and he had moved this

1 Court to transport him for the February 4, 2021 hearing. MR. RODGERS also proposes he asked
2 via a “kite” for “Ms. Cook at SDCC” to make arrangement for his transportation to the Court
3 hearing and schedule video court appearances which was all he could do. The Court’s record,
4 however, shows, by its Certificate of Mailing, the STATE sent its Response and Motion to Dismiss
5 to MR. RODGERS initially on December 31, 2021. It thereafter sent MR. RODGERS another copy
6 which he acknowledges receiving. As MR. RODGERS experiences no difficulty filing within this
7 case a myriad of motions—many of which are duplications of what previously has been denied—it
8 is apparent he could have (1) filed his Reply to the STATE’S Response and Motion to Dismiss
9 within the 35 days after the STATE’S Response and Motion were filed or (2) asked the STATE
10 and/or this Court for additional time before the February 4, 2021 hearing date. Further, MR.
11 RODGERS was aware moving the court in late January 2021 to allow transport of him to the
12 hearing was futile as his previous requests for transport were denied; he was instructed he could
13 arrange telephonic or video appearances. He had months between the October 27, 2020 Order
14 allowing telephonic appearance at the January 7, 2021 hearing. MR. RODGERS provided no proof
15 he had asked “Ms. Cook at SDCC” to arrange either telephonic or video appearance. Perhaps more
16 importantly, MR. RODGERS could have expressed any difficulty he was experiencing with
17 arranging his appearance to the Court, but did not do so.

20
21 5. Notwithstanding the aforementioned, this Court finds no other circumstance set forth
22 within NRCP 60(b) to justify this Court reconsidering or reversing its decision. There was no
23 suggestion “mistake, inadvertence, surprise, or excusable neglect” being presented here. *See* NRCP
24 60(b)(1). There was no “newly discovered evidence that, with reasonable diligence, could not have
25 been discovered in time to move for a new trial under Rule 59(b).” *See* NRCP 60(b)(2). There was
26 no showing of fraud or the judgment was void. *See* NRCP 60(b)(3) and (4). The fact is MR.
27 RODGERS’ Petition for Writ of Habeas Corpus was brought untimely, as pointed out by the
28

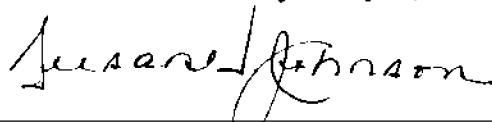
1 STATE. MR. RODGERS could not overcome the procedural default. Further, his claims set forth
2 within his Petition either lacked merit or fell outside the scope of habeas review. MR. RODGERS is
3 not entitled to an affirmative right which he lost by his own conduct. This Court, therefore, denies
4 Petitioner's Motion for Reconsideration and Rehearing for Writ of Habeas Corpus filed March 29,
5 2021.

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

7
8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Petitioner's Motion for
9 Reconsideration and Rehearing for Writ of Habeas Corpus filed March 29, 2021 is denied.

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the matter scheduled to be
11 heard Thursday, April 29, 2021 at 9:00 a.m. is vacated.

12 **Dated this 27th day of April, 2021**

13 

14
15

SUSAN H. JOHNSON, DISTRICT COURT JUDGE

16 **30A EB3 8E03 3C89**
17 **Susan Johnson**
18 **District Court Judge**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Craig Rodgers, Plaintiff(s)

CASE NO: A-20-820408-W

7 vs.

DEPT. NO. Department 22

8 William Hutchings Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 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 4/28/2021

17 Craig Rodgers

#1221816

P.O. Box 208

18 Indian Springs, NV, 89070
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
8/18/2021 11:04 AM
Steven D. Grierson
CLERK OF THE COURT



Craig Rodgers, Plaintiff(s)

Case No.: A-20-820408-W

vs.

William Hutchings Warden, Defendant(s)

Department 22

NOTICE OF HEARING

Please be advised that the Rule 60 (B) Motion in the above-entitled matter is set for hearing as follows:

Date: September 21, 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

Heather L. Linn
CLERK OF THE COURT

File STAMP
copy requested

Craig Rodgers ID NO. 1221816

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

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
State of Nevada

CASE NO.: A-20-820408-W

DEPT. NO.: 22

DOCKET: _____

HEARINGS requested

Rule 60(B) Motion

COMES NOW, Petitioner, Craig Rodgers, herein above respectfully
moves this Honorable Court for an Good Faith Ruling in Favor of
Defendant Rule 60(B) Motion

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

DATED: this 28th day of July, 2021

BY: Craig Rodgers

Craig Rodgers # 1221816
Defendant In Proper Personam

RECEIVED

AUG 09 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

1 Petitioner, Craig Rodgers moves this Honorable Court to grant
2 my Rule 60(b) motion to set aside a judgment, due to the
3 fact that on January 7th, 2021 this court held a hearing
4 at which petitioner was not present because the staff at
5 S.D.C.C. failed to make me available after I requested
6 for them to arrange telephonic or video appearance for me,
7 so the court ordered matter continued for 30 days for Mr. Rodgers
8 to either reply to the State's response or to arrange my
9 appearance at the next court date so on January 13th I
10 ~~was~~ signed up to send out legal mail but because of COVID-19
11 the prison was on lockdown and movement was limited
12 so I didn't get to finally mail it out until January 20th which
13 was a week later and the district court did not receive my motion
14 and order for transportation until January 25th, 2021, but was
15 not filed until February 4th, 2021 which is proof I ~~was~~ was
16 attempting to arrange my appearance for my court date next,
17 I also ~~made~~ made a reply to the state response and motion
18 to Dismiss Petition for writ of Habeas corpus (post-conviction)
19 which was mailed out on January 26th and stamped received
20 February 2, 2021, but was not ~~filed~~ filed until 15 days later
21 on February 17th, 2021, so that show that not only did
22 petitioner do one thing the court asked him to do but
23 he also did both things that was requested of him
24 from the last hearing on January 7th, 2021 so I could
25 appear for court and also make oral arguments. Mr. Rodgers
26 is also including the two letters I sent to M.S. Cook so
27 she could arrangement for my transportation to

the court hearings and Schedule Video Court appearances. When an appeal is perfected, the district court is divested of jurisdiction to revisit issues that are pending before the supreme court, but the district court retains jurisdiction to enter orders on matters that are collateral to and independent from the appealed order, matters that in no way affect the appeal's merits. *Mack-Manley*, 122 Nev. at 855, 138 P.3d at 529-30. In *Honeycutt v. Honeycutt* 94 Nev. 79, 575 P.2d 585, however, ~~the~~ the supreme court adopted a procedure whereby, if a party to an appeal believes a basis exists to alter, vacate, or otherwise modify or change an order or judgment challenged on appeal after an appeal from that order or judgment has been perfected in this court, the party can seek to have the district court certify its intent to grant the requested relief, and thereafter the party may move the supreme court to remand the matter to the district court for the entry of an order granting the requested relief. As outlined in *Honeycutt*, prior to filing a motion for remand in ~~the~~ ^{supreme} court, a party seeking to alter, vacate, or otherwise change or modify an order or judgment challenged on appeal should file a motion for relief from the order or judgment in the district court. As demonstrated by our *Honeycutt* decision, despite our general rule that the perfection of an appeal divests the district court of jurisdiction to act except with regard to matters collateral to or independent from the appealed order, the district court nevertheless

1 retains a limited jurisdiction to review motions
2 made in accordance with this procedure. In considering
3 such motions, the district court has jurisdiction to direct
4 briefing on the motion, hold a hearing regardless of the
5 motion and enter an order denying the motion. petitioner
6 also states the instant petition for writ of Habeas corpus
7 is not time barred since defendant can demonstrate that
8 it is not his fault and that dismissal of the petition has unduly
9 prejudiced him, since the clerk of the district court received the writ
10 of Habeas corpus on August 20th, 2020, but not electronically filed
11 until 11 days later on August 31st, 2020. The Nevada Supreme Court
12 has stated for the purposes of N.R.S. 34.726 that the petition
13 is not filed until it was actually received by the district court
14 See "Zellis v. State 2012 Nev. Unpub. Lexis 1397. Next petitioner
15 Appeal deprivation claim is based on good cause and made
16 within a reasonable time period after ~~petitioner~~ learning
17 that Mr. Parris had failed to perfect a direct appeal on petitioner's
18 behalf after I had requested him to do so and I expressed a
19 desire for a direct appeal; counsel's performance is deficient
20 and prejudice is presumed under these facts. Since Mr. Rodger
21 reliance upon Mr. Parris to file a direct appeal is sufficient
22 cause to excuse any alleged procedural default because (1) I
23 actually believed Mr. Parris was pursuing a timely direct appeal;
24 (2) my belief was objectively reasonable; and (3) I filed my
25 state post-conviction relief petition within a reasonable time
26 after learning Mr. Parris didn't file a timely direct appeal. Counsel's
27 affirmative representation that a timely postconviction

petition will be filed, combined with counsel's subsequent abandonment without timely filing the petition, presents a circumstance where Mr. Parris' action and omissions can constitute an impediment external to the defense to establish cause for the delay under NRS 34.726(1)(a). (Harris v. State, 2017 Nev. App. Lexis 7; 407 P.3d 348). It was also a abuse of discretion. Since different charges were amended to the information. Here the State filed additional charges that did not relate back to the original complaint, as this charge were additional and different charges. Further, Count Four involved an entirely new victim who was not identified in the original criminal complaint and is barred by the Statute of Limitations see NRS 173.095 and also ~~171.085~~ 171.085, "State v. Jackson; 2016 Nev. App. Unpub. Lexis 127 (2016)". The Nevada Supreme Court has indicated in "Fawez v. State 105 Nev. 682 (1999)" that denial of the right to appeal deprives a person of a basic right that presumably prejudices the petitioner, so the appropriate remedy would be to allow me an opportunity to raise in a petition for a writ of habeas corpus so any issues ~~and~~ that could have been raised on direct appeal can be brought up. See "Lozady v. State 110 Nev. 349", if a petitioner demonstrates that he did not knowingly waive his right to an appeal, the district court shall appoint counsel to represent the petitioner and counsel shall present those issues. "Gibens v. State 118 Nev. 500, petitioner also states it is a abuse of discretion when it sentenced me to a PSI that I never saw before August 6th, 2019, the PSI contained impalpable or highly suspect evidence, the Nevada Supreme Court has emphasized that any objections made by a defendant about his PSI "must be resolved prior to sentencing", not after see ~~also~~ also

Blankenship 132 Nev. 500 (2016). A prisoner sentenced on the basis of assumptions concerning his criminal record which are materially untrue, whether caused by carelessness or design, is inconsistent with due process of law and such a conviction cannot stand. The Probation Success Probability (PSP) score is wrong because I was not convicted of the charges that are in my PSP like "First degree kidnapping and sex trafficking", neither one of those charges are in my judgment of conviction, so my score should be different because those charges will be very prejudicial to me through-out the MDOC prison system. "Vasquez v. State 2020 Nev. App. Unpub. Lexis 657. Due to the deficient performance of counsel, defendant's plea colloquy was rendered invalid because trial counsel had prior knowledge of the material witness warrant and withheld that key piece of information, while advising defendant to enter a plea, that then makes the plea become involuntary and not knowingly made. Trial counsel understood the implications of this information and chose to withhold this from petitioner, purposely prejudicing my proceedings and rendering his counsel ineffective which entitles defendant to relief, so petitioner pray this court grant my Rule 60(b) motion so I can make oral arguments on my claims.

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 28
day of July, 2021, I mailed a true and correct copy of the foregoing, "

Rule 60(b) Motion"

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 89155-1160

William Hutchings
Warden Since
20925 Cold Creek Road
Indian Springs NV 89070

Steve Wolfson
District Attorney
200 Lewis Ave
Las Vegas NV 89155

CC:FILE

DATED: this 28 day of July, 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 _____

RULE 60(b) Motion
(Title of Document)

filed in District Court Case number A-20-820408

☒ 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.

an an
Signature

7/28/21
Date

Dennis Rodgers
Print Name

Title

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Craig Rogers	1221816	12B3V	1-8-21

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 type="checkbox"/> LAW LIBRARY	<input type="checkbox"/> DENTAL
<input type="checkbox"/> LAUNDRY	<input type="checkbox"/> PROPERTY ROOM	<input checked="" type="checkbox"/> SHIFT COMMAND	<input type="checkbox"/> OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: MS COOK

6.) REQUEST: (PRINT BELOW)

YES: I just received notice that I need to make arrangements to appear at my ~~new~~ next court date on 02/04/2021 please thanks in advance

7.) INMATE SIGNATURE [Signature] DOC # 1221816

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

Rogers 1221816
Resubmit your kite with a copy of the notice for your court appearance.

10.) RESPONDING STAFF SIGNATURE [Signature] DATE 1/13/21

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Craig Rodgers	122186	12B-3V	1-22-21

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 type="checkbox"/> LAW LIBRARY	<input type="checkbox"/> DENTAL
<input type="checkbox"/> LAUNDRY	<input type="checkbox"/> PROPERTY ROOM	<input checked="" type="checkbox"/> OTHER	

5.) NAME OF INDIVIDUAL TO CONTACT: MS. Cook

6.) REQUEST: (PRINT BELOW)

Yes this is a copy of the minutes for my next court day on 02-04-21 ~~at 12:00~~ in advance

7.) INMATE SIGNATURE  DOC # 122186

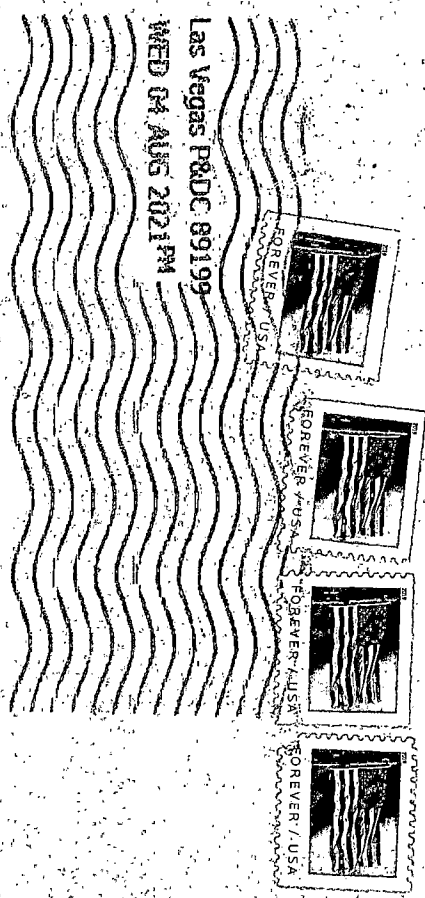
8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

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

STEVEN D. GILGISON
CLIENT of the COURT
200 Lewis Ave, 3rd Floor
LAS VEGAS, WV 89155-1160



File stamp
copy requested

23

1 Craig Rodgers #1221816
2 / In Propria Personam
3 Post Office Box 208 S.D.C.C.
4 Indian Springs, Nevada 89018

Electronically Filed
08/18/2021

Heather L. Lumin
CLERK OF THE COURT

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 Craig Rodgers
8 petitioner,
9
10 v.
11 William Hutchings, Warden
12 State of Nevada

Hearing requested

Case No. A-20-820408-L

Dept No. 23

Docket _____

13
14 NOTICE OF MOTION

15 YOU WILL PLEASE TAKE NOTICE, that _____

16 Rule 60(B) motion

17 will come on for hearing before the above-entitled Court on the ____ day of _____, 20____,
18 at the hour of ____ o'clock ____ M. In Department ____, of said Court.

19
20 CC:FILE

21
22 DATED: this 28 day of July, 2021.

23
24 BY: Craig Rodgers #1221816
25 /In Propria Personam

CLERK OF THE COURT

AUG 09 2021

RECEIVED

Heather S. Hemin
CLERK OF THE COURT

28

Craig Rodgers

NDOC No. 1221814

In proper person

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

Craig Rodgers)

Petitioner,)

v.)

Case No. A-20-820408

William Hutchins, Warden)

Dept. No. 22

Respondent.)

State of Nevada)

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

Petitioner, Craig Rodgers, proceeding pro se, requests
that this Honorable Court order transportation for his personal appearance or, in the
alternative, that he be made available to appear by telephone or by video conference
at the hearing in the instant case that is scheduled for _____
at _____.

RECEIVED
AUG 19 2021

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

2 1. I am an inmate incarcerated at Soce.

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 Gebers 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: SPCC,
12 whose telephone number is 725-216-6500 EXT 66411

13
14 Dated this 28 day of July, 2021.

15
16 Craig Rodgers

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19 Craig Rodgers
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CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 28
day of July, 2021, I mailed a true and correct copy of the foregoing, "Rule 60(B) Motion"
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

William Hutchings
Warden
20825 Cold Creek Road
Indian Springs NV 89070

Steve Wolfson
200 Lewis Ave
Las Vegas NV 89155-2212

CC:FILE

DATED: this 28 day of July, 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 _____

(Title of Document)

filed in District Court Case number _____

☐ 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

Date

Print Name

Title

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) Case No. A-20-8204082

10)
11 William Hitchings Warden)

Dept. No. 22

12)
13 Respondent.)

14 State of Nevada)
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

AUG 09 2021

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
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OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CRAIG RODGERS, aka,
Craig Allen Rodgers,
#1680324

Defendant.

CASE NO: A-20-820408-W

DEPT NO: XXII

STATE'S OPPOSITION TO DEFENDANT'S RULE 60(B) MOTION

DATE OF HEARING: SEPTEMBER 21, 2021
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Rule 60(B) Motion.

This Opposition 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.

//

//

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//

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On April 22, 2016, CRAIG RODGERS, aka Craig Allen Rodgers (hereinafter
4 “Defendant”), 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 Defendant. 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 Defendant.

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

25 On August 7, 2018, Defendant filed a Motion to Appoint Alternate Counsel, wishing
26 to withdraw his guilty plea. On August 14, 2018, the Court granted Defendant’s Motion, and
27 appointed Mr. John Parris, Esq. to review Defendant’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 Defendant's guilty plea. The Court allowed Defendant 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 Defendant's withdrawal of his plea, and that the case proceed on the Amended
5 Information. The Court so ordered, and Defendant's case proceeded to jury trial. On August
6 6, 2019, Defendant accepted a second set of plea negotiations, and the State filed anew a
7 Second Amended Information charging Defendant 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). Defendant executed a GPA memorializing the parties' agreement.

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

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

23 On August 31, 2020, Defendant filed a Petition for Writ of Habeas Corpus (Post-
24 Conviction). That same day, he also filed an Ex Parte Motion for Appointment of Counsel and
25 Request for Evidentiary hearing. On October 27, 2020, this Court entered an Order Denying
26 Defendant's Motion for Appointment of Counsel and Request for Evidentiary Hearing. On
27 December 31, 2020, the State filed its Response and Motion to Dismiss Defendant's Petition.
28

1 On January 7, 2021, this matter came before the Court, at which time the Court
2 continued the hearing for Defendant to file a Reply and/or to arrange his appearance. On
3 February 4, 2021, this matter again came before the Court, at which time the Court noted that
4 Defendant had failed to file a Reply and had neglected to arrange his appearance in court. The
5 Court, at that hearing, denied Defendant's Petition and granted the State's Motion to Dismiss.
6 The Court's Findings of Fact, Conclusions of Law and Order were filed on March 5, 2021.
7 Entry of that Order was noticed on March 10, 2021.

8 On March 15, 2021, and again on March 17, 2021, Defendant noticed his appeal from
9 the Court's denial of his Petition. This appeal is currently pending before the Nevada Supreme
10 Court, under case number 82645.

11 On March 29, 2021, Defendant filed a Motion for Reconsideration & Rehearing for
12 Writ of Habeas Corpus. On April 26, 2021, the State filed its Opposition. On April 27, 2021,
13 the Court denied the Motion for Reconsideration.

14 On April 27, 2021, Defendant filed a Motion to Modify and/or Correct Illegal Sentence.
15 On May 19, 2021, the State filed its Opposition. On June 9, 2021, Defendant filed a Reply.
16 On June 24, 2021, the Court denied the Motion. On July 27, 2021, Defendant filed a Notice
17 of Appeal. This appeal is currently pending before the Nevada Supreme Court, under case
18 number 83301.

19 On August 18, 2021, Defendant filed the instant Rule 60(B) Motion. The State responds
20 as follows.

21 **ARGUMENT**

22 **DUE TO THE PENDING APPEAL, THIS COURT DOES NOT HAVE** 23 **JURISDICTION TO CONSIDER THE RULE 60(B) MOTION**

24 In his Rule 60(B) Motion, Defendant requests that this Court reconsider its denial of
25 his post-conviction Petition for Writ of Habeas Corpus. Defendant fails to appreciate that, by
26 filing an appeal of this Court's denial, Defendant has divested this Court of jurisdiction to
27 reconsider its denial of his petition.

28 //

1 The Nevada Supreme Court has determined The Nevada Supreme Court has
2 determined, “[j]urisdiction in an appeal is vested *solely* in the supreme court until the remittitur
3 issues to the district court.” Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994)
4 (emphasis added). Therefore, while an appeal is pending, district courts lack jurisdiction over
5 a case. Id. Indeed, only a remittitur will return jurisdiction from an appellate court to the district
6 court. See NRS 177.035 (“After the certificate of judgment has been remitted, the appellate
7 court of competent jurisdiction shall have no further jurisdiction of the appeal or of the
8 proceedings thereon, and all orders which may be necessary to carry the judgment into effect
9 shall be made by the court to which the certificate is remitted.”). The Nevada Supreme Court
10 “has repeatedly held that the timely filing of a notice of appeal ‘divests the district court of
11 jurisdiction of act and vests jurisdiction in [the appellate] court.’” Foster v. Dingwall, 126 Nev.
12 49, 52, 228 P.3d 453, 454-55 (2010) (quoting Mack-Manley v. Manley, 122 Nev. 849, 855,
13 138 P.3d 525, 529 (2006)).

14 Defendant attempts to circumvent this Court’s lack of jurisdiction by citing irrelevant
15 law. Motion, at 2. It is true that while an appeal is pending, this court retains jurisdiction to
16 address matters unrelated to the appeal’s merits. Mack-Manley v. Manley, 122 Nev. 849, 855,
17 138 P.3d 525, 529-30 (2006). However, Defendant is requesting this court determine the
18 merits of his habeas claims, when this is the precise issue, he has raised on appeal.

19 As stated *supra.*, Defendant noticed his appeal on March 15, 2021, and again on March
20 17, 2021. Therefore, Defendant effectively divested this Court of jurisdiction to consider
21 Defendant’s contentions in his Motion for Reconsideration. Foster, 126 Nev. at 52, 228 P.3d
22 at 454-55. As such, the State respectfully submits that this Court is without jurisdiction to
23 entertain Defendant’s Motion for Reconsideration, much less grant Defendant the relief
24 Defendant seeks.

25 Furthermore, even if this Court possessed jurisdiction to consider the instant Motion, it
26 would have to deny the Motion as Defendant has failed to present this Court with any basis to
27 reconsider its denial of his Petition.
28

1 CONCLUSION

2 For the foregoing reasons, the State respectfully requests that Defendant's Rule 60(B)
3 Motion be denied.

4 DATED this 27th day of August, 2021.

5 Respectfully submitted,

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

9 BY /s/ Karen Mishler
10 KAREN MISHLER
11 Chief Deputy District Attorney
12 Nevada Bar #013730

13 CERTIFICATE OF SERVICE

14 I hereby certify that service of State's Opposition to Defendant's Motion, was made
15 this 27th day of August, 2021, by Mail via United States Postal Service to:

16 CRAIG ROGERS #1221816
17 SOUTHERN NEVADA CORRECTIONAL CENTER
18 P.O. BOX #208
19 INDIAN SPRINGS, NV 89070-0208

20 /s/ Kristian Falcon

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

km/kf/dvu

1 Craig Rodgers #122186
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

5 IN THE 7th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF CLARK

7
8
9 Craig Rodgers
10 Plaintiff,

11 vs.

12 William Hutchings, Warden
13 State of Nevada
14 Defendant.

Case No. A-20-820408

Dept. No. 22

Docket _____

15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 Craig Rodgers, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 rule 60(B) motion

22
23 ruled on the 26th day of August, 20 21

24
25 Dated this 7th day of September, 20 21

26 Respectfully Submitted,

27 **RECEIVED**

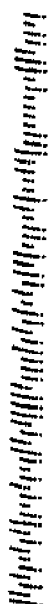
28 **SEP 13 2021**

29 **CLERK OF THE COURT**

CRAIG RODGERS #1221816
P.O. BOX 208
INDIAN SPRINGS, NV 89070

STEVEN GRIFFINSON
CLERK of the COURT
LAS VEGAS NV 89155-1160

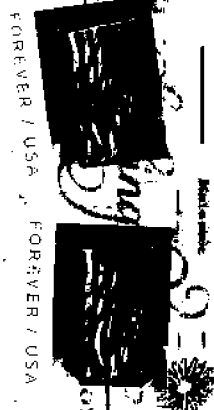
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Southern Desert
Correctional Center
SEP 08 2021
OUTGOING MAIL

LAS VEGAS NV 89155-1160
8 SEP 2021 PM 5

RECEIVED
SEP 13 2021
CLERK OF THE COURT



Steven D. Grierson

Craig Rodgers, 1221816
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

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

Craig Rodgers
Plaintiff,
vs.
William Hutchings
Defendant.
State of Nevada

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

DESIGNATION OF RECORD ON APPEAL

TO: _____

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

DATED this 7th day of September, 2021.

RESPECTFULLY SUBMITTED BY:

Craig Rodgers
Craig Rodgers #1221816
Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 17th
day of September, 2021, 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 Simpson
Clerk of the Court
200 Lewis Ave, 2nd Floor
Las Vegas, NV 89155-1116

William Hutchings
Warden
20825 Cold Creek Road
Indian Springs NV 89022

Steve Wolfson
Dist. Court Attorney
200 Lewis Ave
Las Vegas NV 89155

CC:FILE

DATED: this 17th day of September, 2021.

Craig Rodgers
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 of rule 60(B) motion
(Title of Document)

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


Signature

8-17-21
Date

Craig Rodgers
Print Name

Title



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; STEVEN B.
14 WOLFSON, DISTRICT ATTORNEY; STATE OF
NEVADA,

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

28 Counsel:

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

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

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

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

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

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

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

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

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

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 16 day of September 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Craig Rodgers

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
403 - 408
WILL FOLLOW VIA
U.S. MAIL**

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
409 - 410
WILL FOLLOW VIA
U.S. MAIL**

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. 83517
District Court Case No. A820408, ~~C314359~~

FILED

OCT 28 2021

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

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 30th day of September, 2021.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
October 26, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Andrew Lococo
Deputy Clerk

A-20-820408-W
CCJD
NV Supreme Court Clerks Certificate/Judgm
4972128



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. 83517

FILED

SEP 30 2021

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

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court "ORDER denying and/or dismissing the rule 60(B) motion ruled on the 26th day of August, 2021." Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Because no statute or court rule permits an appeal from the aforementioned order in a criminal matter, 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.

[Signature]
Parraguirre

[Signature], J.
Stiglich

[Signature], J.
Silver

cc: Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City
Clark County District Attorney
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. 835-17
District Court Case No. A820408; ~~0314359~~

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: October 26, 2021

Elizabeth A. Brown, Clerk of Court

By: Andrew Lococo
Deputy Clerk

cc (without enclosures):

Craig Allen Rodgers
Clark County District Attorney \ Alexander G. Chen
Hon. Susan Johnson, District Judge

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 OCT 28 2021.

Deputy HEATHER UNGERMANN
District Court Clerk

RECEIVED
APPEALS

OCT 28 2021

CLERK OF THE COURT

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. 82645
District Court Case No. A820408; ~~C314359~~

FILED

DEC - 1 2021

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

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:

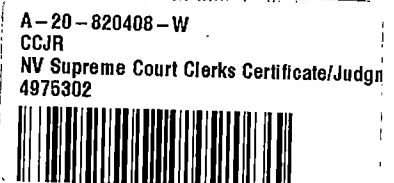
"RDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order."

Judgment, as quoted above, entered this 5th day of November, 2021.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
November 30, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



IN THE COURT OF APPEALS 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. 82645-COA

FILED

NOV 05 2021

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

ORDER OF REVERSAL AND REMAND


Craig Allen Rodgers appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on August 31, 2020. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

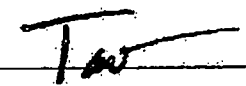
We previously ordered the State to show cause why the district court's order denying the petition as untimely should not be reversed. See *Rodgers v. State*, Docket No. 82645-COA (Order to Show Cause, October 13, 2021). Although Rodgers' petition was filed outside the one-year time limit, see NRS 34.726(1), it was received by the clerk of the district court within the one-year time limit. And it is the clerk's duty, not the parties', to file submitted documents. See *Sullivan v. Eighth Judicial Dist. Court*, 111 Nev. 1367, 1372, 904 P.2d 1039, 1042 (1995).


In its response, the State concedes the clerk received the petition within the one-year time limit. Because the record demonstrates the district court clerk received the petition within the one-year time limit

for filing the petition, we conclude the district court erred by denying the petition as untimely. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


Gibbons C.J.


Tao J.


Bulla J.

cc: Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City
Clark County District Attorney
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. 82645
District Court Case No. A820408; ~~CS14359~~

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: November 30, 2021

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Clark County District Attorney

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 - 1 2021.

HEATHER UNGERMANN
Deputy District Court Clerk

RECEIVED
APPEALS

DEC - 1 2021

CLERK OF THE COURT

Stamp file
Copy Requested

Craig Rodgers #1221816
Defendant In Pro Persona
Post Office Box 208 S.D.C.C.
Indian Springs, Nevada 89018

Electronically Filed
12/23/2021

Heather J. Hume
CLERK OF THE COURT

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

Case No. A-20-820908-W

Dept. No. 22

Docket _____

CRAIG Rodgers
Petitioner,

vs.

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

Respondent

"Amended Petition for writ
OF HABEAS CORPUS (post-conviction)"

PETITION : EXPEDITIOUS JUDICIAL EXAMINATION
(NRS 34.360 - 34.830)

Date of Hearing: 01-04-22

Time of Hearing: 8:30 AM

"ORAL ARGUMENT REQUESTED, Yes ☒ No ☐

Comes Now, defendant, Craig Rodgers, proceeding in proper person, hereby moves this Honorable Court for its **ORDER** granting petitioner an Expeditious Judicial Examination of petitioner's Writ of Habeas Corpus. In addition, to hold an **Evidentiary Hearing** for meaningful Habeas Corpus Judicial Review.

POINTS AND AUTHORITIES

The **Nevada Revised Statute 34.740, Petition : Expeditious Judicial Examination** states : "The original petition must be presented promptly to a District Judge or a Justice of the Supreme Court by the Clerk of the Court. The Petition must be examined expeditiously by the Judge or Justice to whom it is assigned."

In the **United States Constitution, Article 1, Section 9**. It states: "The Privilege of the Writ of Habeas Corpus **shall not be suspended**, unless when in Cases of Rebellion or Invasion the public safety may require it."

In the **Nevada Constitution, Article 1, Section 5**. It states: "The privilege of the Writ of Habeas Corpus, **shall not be suspended** unless when in cases of rebellion or invasion the public safety may require its suspension."

In accordance with the provisions of **NRS 34.360 – 34.830**, Denial of Due Process which violates the **United States Constitution**, which violates the **5th and 14th Amendment(s)**.

The District Court has essentially **suspended** the petitioner's **Writ of Habeas Corpus**, without rendering a decision in a reasonable time frame, or showing just cause to do so. This is causing the petitioner prejudice, by unreasonable delay and preventing him access to the Judicial Appeals process. Also, this is hindering or delaying justice, and preventing adjudication. The improper suspension of a Writ of Habeas Corpus, would constitute a Due Process violation. By doing so, would be a violation to the United States Constitution. (5th and 14th Amendment)

"The basic purpose of the Writ of Habeas Corpus is to enable those unlawfully incarcerated to obtain their freedom." "Access of prisoners to courts for purpose of presenting petitions for Habeas Corpus may not be **denied** or **obstructed**." (89 S.Ct. 747, Johnson v. Avery)

"This Court has constantly emphasized the fundamental importance of the Writ of Habeas Corpus in our constitutional scheme, and the Congress has demonstrated its solicitude for the vigor of the Great Writ. The Court has steadfastly insisted that there is no higher duty than to maintain it unimpaired. (59 S.Ct. 442, Bowen v. Johnston)

1 "The plight of a man in prison may in these respects be even more acute than
2 the plight of a person on the outside. He may need collateral proceedings to test the
3 legality of his detention or relief against management of the parole system or against
4 defective detainers lodge against him which create burdens in the nature of his
5 incarcerated status." (89 S.Ct. 747, Johnson v. Avery)

6 "Reasonable access to the courts is a right (secured by the Constitution and
7 laws of the United States), being guaranteed as against state action by the Due
8 Process Clause of the 14th Amendment. (65 S.Ct. 978, Write v. Ragen)

9 "The constitutional Writ of Habeas Corpus heretofore used, within defined limits,
10 as a post-conviction procedure to challenge the validity of a conviction, may not be
11 abolished as a post-conviction remedy by legislative fiat." (434 P.2d 437, Marshall v.
12 Warden)

13 This Petition is made and based upon all papers and pleadings on file with the
14 Clerk of the Court which are hereby incorporated by this reference, the Points and
15 Authorities Herein, and attached Affidavit of Defendant.

16 **DATED:** This ~~10th~~ 7th day of december, 20 21.

17 **By:** ca an Craig Rodges # 1221816

FACTS OF THE CASE:

The Petitioner has filed a timely Writ of Habeas Corpus on, 08-20-2020
_____. The Petitioner, still has **not** received a decision on his Writ of
Habeas Corpus. It has been exactly, 1 year 3 months and
17 days _____ without a decision.

The Petitioner has shown good cause, to request the **NEVADA SUPREME
COURT**. To **expedite** and **review** the petitioner's Writ of Habeas Corpus for **Judicial
Review**.

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 WITNESS IN
CUSTODY (AND PREPARED TO TESTIFY):

"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 [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.
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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 4(d)(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 PROCEDURE
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.
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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.
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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 PLED 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.
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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 HAD 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.
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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 MISFEITANCE
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.
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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 (E) 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 WAVING 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.
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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-16-314359-1 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 20B.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".

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 C316107 AFTER REVDICTION 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 (F) GROUND NINE Counsel was ineffective for failing
2 to challenge the Notice of intent to seek punishment
3 AS A Habitual Criminal, in violation of Sixth And
4 Fourteenth Amendments of the U.S. Constitution

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

6 1. Mr. Parris was INEFFECTIVE for not doing his due diligence
7 he would of found out petitioner only had one real
8 felony not three that the D.A. claimed i had when
9 they file the notice on 11/28/2016 EXHIBIT M

10
11 2. Had Mr. Parris been Effective he would of found
12 out that the 2001 conviction was dismissed and
13 that the 2006 conviction from Oklahoma was
14 a misdemeanor not a felony see Exhibit M. So
15 had counsel not been ineffective the district attorney
16 would not have been able to use that as a bargaining
17 chip because petitioner would not of pleaded guilty
18 and insisted on going to trial.

19
20 3. Petitioner contends He was denied Effective Assistance
21 of counsel Mr. Parris Action were objectively unreasonable
22 As it Unduly resulted in petitioner taking a plea.

23
24 4. An Evidentiary Hearing is warranted to determine
25 the ineffectiveness of counsel in this matter and Petitioner's
26 denial of due process

27

28

1 (J) GROUND TEN. Counsel was ineffective constitutionally
2 deficient in failing to advise me properly in regard
3 to a potential sentence and time off of sentence and eligibility
4 for parole in violation of the Sixth and Fourteenth Amendment.

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

6
7 1. Mr. Parris was ineffective for telling petitioner that
8 if I plead guilty that I would be eligible to apply
9 good time credits towards my eligibility for parole,
10 thus lowering the minimum term of my sentence.
11 See Exhibit N from the court minute and document.

12
13 2. Counsel misinformed petitioner about the direct
14 consequences about information in regard to the minimum
15 time I would have to serve before I was eligible
16 for parole, which I found out after I went to the
17 Law Library and did some research and had I known
18 it was not true petitioner would of not accepted
19 the plea deal and insisted on going to trial.

20
21 3. An Evidentiary Hearing is warranted to determine the
22 ~~fact~~ ineffectiveness of counsel in this matter caused
23 by Mr. Parris by not providing competent representation
24 to a client that requires legal knowledge, skill, thoroughness

1 (k) GROUND ^{Eleven} Counsel was also ineffective for failing
2 to challenge the second Amended plea agreement that
3 contained a new improper charge which was in
4 violation fifth, sixth and fourteenth Amendment of the U.S. Constitution.

5 (k) SUPPORTING FACTS (Tell your story briefly without citing cases or law): _____
6

7 1. Mr. Parris was ineffective for not challenging the State's
8 new ~~and~~ information because a additional and different
9 charge did not relate back to the original information.
10 The district court can grant an amendment of an information
11 before the verdict if no additional or different offense
12 is charged and the Petitioner's substantial rights are
13 not prejudiced.

14
15 2. Here, however, the State filed an additional charge
16 of pandering that did not relate back to the original
17 complaint, as that charge were additional and different
18 charge. Further, Court found pandering involved an
19 entirely new victim who was not identified in the
20 original criminal complaint and also the Statute
21 of limitations was not tolled by the new charge, so
22 Mr. Parris ~~should~~ should of argued to dismiss that
23 Court Exhibit K.

24
25 3. An Evidentiary Hearing is warranted to determine if
26 Mr. Parris was ineffective for not challenging the amended information
27 of a charge that case was suppose to be dismissed.

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:

1. That Craig Rodgers, is the affiant in this affidavit and is currently incarcerated at S.D.C.C. a victim of a fundamentally miscarriage of justice trying to redress the fundamentally unjust incarceration.
2. That, State failed to adhere to the laws of the state and the rules of the district court
3. That, state claims petitioner engaged in voluntary conduct but the fact is that the state categorically knows petitioner did not engage in such conduct
4. That, state from the inception of the case has knowingly and blatantly violated petitioner's constitution rights by committing prosecutorial misconduct
5. That, state actions in "BAD FAITH" has been displayed throughout the proceedings.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 7th Day Of December

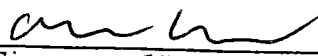
2021.

BY:

Craig Rodgers #122/816
Post Office Box-208(SDCC)
Indian Springs, Nevada. 89070./
Affiant, In Propria Personam:

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


3 EXECUTED at S. D. C. C.
4 on the 7th day of December, 2021.

5
6 
7 Signature of Petitioner

8 VERIFICATION

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

13
14 
15 Signature of Petitioner

16
17 
18 Attorney for Petitioner

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Amended

Petition for writ of Habeas corpus (post-conviction)
(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

12-8-21
Date

Craig Rodgers
Print Name

Title

CERTIFICATE OF SERVICE BY MAILING

I, Craig Rodgers, hereby certify, pursuant to NRCP 5(b), that on this 7th
day of December, 2021, I mailed a true and correct copy of the foregoing, "Amended
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:

Steven Grierson
Clerk of the Court
200 Lewis Ave
Las Vegas, NV 89155

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

Aaron Ford
Attorney General
100 North Carson St
Carson City, NV 89701-4717

William Hutchins
Warden
20825 Cold Creek Rd
Indian Springs, NV 89070-0001

CC:FILE

DATED: this 7th day of December, 2021.

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

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 evinc

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 pleaded 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 that 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 Courts 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,

EXHIBIT

B

CASE SUMMARY FOR AUGUST 20, 2019
2 PAGES

EXHIBIT

B

#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 exparte 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

455



1 **NOASC**
2 **JOHN P. PARRIS, ESQ.**
3 **Nevada Bar No. 7479**
4 **LAW OFFICES OF JOHN P. PARRIS**
5 **324 South 3rd Street, Suite 200**
6 **Las Vegas, NV 89101**
7 **Tel. (702) 387-2000**
8 **Attorney for Craig Rodgers**

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

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

11 **THE STATE OF NEVADA,**

12 **Plaintiff,**

Case No.
Dep't No.

C-16-314359-1
XXII

13 **vs.**

14 **CRAIG RODGERS, #1680324,**

15 **Defendant.**

NOTICE OF APPEAL

16 Notice is hereby given that Craig Rodgers, defendant in the above-entitled action,
17 appeals to the Supreme Court of Nevada from the Judgment of Conviction filed August 23,
18 2019.

19 **DATED this September 23, 2019.**

20 **/s/ John Parris**

21 **JOHN P. PARRIS, ESQ.**
22 **Nevada Bar No. 7479**
23 **LAW OFFICES OF JOHN P. PARRIS**
24 **324 South 3rd Street, Suite 200**
25 **Las Vegas, NV 89101**
26 **(702) 387-2000**
27 **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"/> Prosecute (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Dismissed (before trial)	<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 with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Guilty Plea without Sent. (before trial)	<input type="checkbox"/> Conviction	<input type="checkbox"/> Conviction

Case Number: 4584359-1

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.

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

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On September 24, 2019, the undersigned counsel initiated the instant
3 appeal from the Judgment of Conviction in Eighth Judicial District Court
4 case number C-16-314359-1. This Court filed an Order to Show Cause and
5 Suspending Briefing on October 8, 2019. This response follows.

6 Appellant would ask this Court to hold harmless any defects in filing
7 the notice of appeal. Pursuant to Nevada law, defense counsel has the duty
8 to perfect an appeal when a defendant has been convicted and expresses ei-
9 ther a desire to appeal or dissatisfaction with the conviction. *Lozada v. State*,
10 110 Nev. 349, 354, 871 P.2d 944, 947 (1994). Defense counsel's failure to do
11 so is per se ineffective and prejudicial. *Id.* The remedy for such a deficiency
12 is an order issued to the district court clerk to file a notice of appeal and pro-
13 ceed with a direct appeal before this Court. See NRAP 4(c). If this Court does
14 find that the notice of appeal does not relate back, it is likely that Appellant
15 will prevail on a post-conviction petition for writ of habeas corpus alleging
16 ineffective assistance of appellate counsel, the ultimate result being that Ap-
17 pellant's case will languish for an indeterminate period prior to this appeal
18 finally being heard on the merits.

19 For those reasons, Appellant would ask this Court to reinstate briefing
20 on this matter.

21
22 DATED this 30 of October, 2019.

23 /s/ John Parris

24 JOHN P. PARRIS, ESQ.

25 Nevada Bar No. 7479

26 **LAW OFFICES OF JOHN P. PARRIS**

27 324 South 3rd Street, Suite 200

28 Las Vegas, NV 89101

(702) 382-0905

Counsel for Appellant

EXHIBIT

F

CRIMINAL COMPLAINT
AGAINST ANTOINETTE MARINEZ
2 PAGES

EXHIBIT

F

#001

LCC

FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

NOV 20 2 25 PM '12

THE STATE OF NEVADA,

JUSTICE COURT
Plaintiff LAS VEGAS NEVADA

BY: [Signature] DEPUTY

CASE NO: 12F18766X

DEPT NO: 4

-vs-

ANTOINETTE MARTINEZ, aka,
Antoinette Evette Martinez #3054969,

Defendant.

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)

[Signature]
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

#001

LCC

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,

CASE NO: C-16-316167-1

17 -vs-

DEPT NO: XXIII

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

20 Defendant.

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
Nevada Bar #11390

25
26 ///

27 ///

28 ///

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

NAME

ADDRESS

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-16-34359-1

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

7 I.A. 4/25/16
8 10:00 AM
9 PD - WOOD

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-16-314359-1

11 -vs-

DEPT NO: VI

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

14 Defendant.

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 BATTERY WITH USE OF A DEADLY WEAPON
21 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 -
22 NOC 50226); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category
23 B Felony - NRS 200.460 - NOC 50185); FIRST DEGREE KIDNAPPING WITH USE OF A
24 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A
25 Felony - NRS 200.310, 200.320, 193.165 - NOC 50056); MAYHEM WITH USE OF A
26 DEADLY WEAPON (Category B Felony - NRS 200.280, 193.165 - NOC 50045) and
27 ROBBERY (Category B Felony - NRS 200.380 - NOC 50137), on or about the 6th day of
28 March, 2015, within the County of Clark, State of Nevada, contrary to the form, force and

W:\2015\2015F039\39\15F03939-INFM-(RODGERS_CRAIG)-001.DOCX

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

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HATCH, S.
MARTINEZ, Antoinette
WATTS, Joseph

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

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

EXHIBIT

K

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

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

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

BY
APRIL WATKINS, DEPUTY

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-16-314359-1

11 -vs-

DEPT NO: XXII

12 CRAIG RODGERS, aka,
13 Craig Allen Rodgers, #1680324
14 Defendant.

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

**PLEADING
CONTINUES
IN NEXT
VOLUME**