

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 84886 and Case No. 857471

SEE ALL CASES OF MATTHEW TRAVIS HOUSTON:

79408, 84885, 85351, 85354
84281, 84478, 85353, 86041, 86080, 86103
80562, 80562 COA, 84417, 84418, 84472
84887 and 85352

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

APR 14 2023

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

MATTHEW TRAVIS HOUSTON,
Petitioner/Appellant,

-vs-

THE STATE OF NEVADA, et al.
Respondents.

MOTION FOR THE APPOINTMENT
OF COUNSEL ; MOTION FOR EXTENSION
OF TIME TO FILE APPELLANT'S
INFORMAL REPLY BRIEF UNDER
NRAP 31(b)(3)(B) -AND-
REQUEST FOR EVIDENTIARY HEARING
UNDER NRAP 3C AND NRAP 27E

COMES NOW, the Petitioner/Appellant, Matthew Travis Houston, proceeding pro se, within the above entitled cause of action and respectfully requests this Court to consider the appointment of counsel for Petitioner for the prosecution of this action.

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

MEMORANDUM OF POINTS AND AUTHORITIES

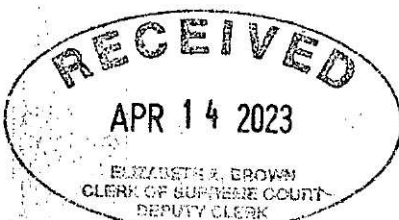
I. STATEMENT OF THE CASE

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

II. STATEMENT OF THE FACTS

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

1. The merits of claims for relief in this action are of Constitutional dimension, and Petitioner is likely to succeed in this case. SEE previously filed 'STATEMENT OF FACTS' by the Appellant.



23-11512 /

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2 POINTS AND AUTHORITIES

3 NRS 34.750 Appointment of Counsel for indigents; pleading supplemental to petition;
4 response to dismiss.

5 "If the Court is satisfied that the allegation of indigency is true and the petition is not
6 dismissed summarily, the Court may appoint counsel to represent the petitioner."

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

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

11 NRS 178.397 Assignment of counsel.

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

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

18
19 Dated this 8 day of April, 2023.

20
21 Respectfully submitted,

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

II. ARGUMENT

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

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

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

III. CONCLUSION

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


Dated this 8 day of April, 2023.


Petitioner.

VERIFICATION

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

Dated this 8 day of April, 2023.


Petitioner, pro per.

CERTIFICATE OF SERVICE BY MAIL

I, Matthew Travis Houston, hereby certify pursuant to N.R.C.P.

5(b), that on this 8 day of April, of the year 2023, I mailed a true and correct copy of the foregoing MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S INFORMAL REPLY BRIEF UNDER NRAP 31(b)(3)(B); Motion for the Appointment of Counsel; and Request for

Evidentiary Hearing, addressed to:

SUPREME COURT OF NEVADA
Name

NEVADA ATTORNEY GENERAL
Name

CLARK COUNTY DA
Name

Office of the Clerk
201 S. Carson Street, 201
Carson City, NV
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Aaron D. Ford
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Matthew Travis Houston
Petitioner