

Travis Bowles  
1083890  
1700 Prison Ad  
Lovelock, NV 89419

NO. 84929

FILED

In the Nevada Court of Appeals

JUN 27 2022

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

Travis Bowles

Case:

petitioner

v.

Petition for Writ of Mandamus

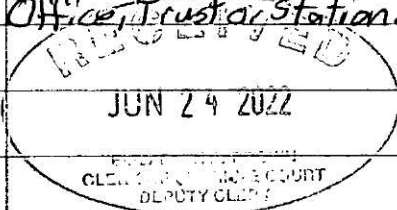
Judge Connie Steinheimer, or in the alternative Show Cause  
Second Judicial District Court, per NRS 34.160 et. seq.

Comes now, Travis Bowles, petitioner, in proper and requests  
this Honorable Court to consider this petition for Writ of Mandamus  
or in the alternative to Show Cause, this petition is made under  
color of NRS 34.160 through and inclusive of NRS 34.310.

Petitioner relies on the following Authorities:

A Writ of Mandamus will not issue so as to compel one district  
Judge, in the exercise of a Judicial duty, to be governed by the  
views of another district Judge as to the construction of a statute,  
contrary to his own opinion of what the construction should be. This  
is contrary to the principle of the Law of Mandamus, which presupposes  
a superior authority to command the doing of a particular act enjoined  
by law. *Jannett v. Stevens*, 33 Ned 527, 111 p. 1025 (1910)

NRS 34.160 which states in pertinent part "The writ may be issued by  
the Supreme Court, the Court of Appeals... to compel the performance  
of an act which the law especially enjoins as a duty resulting from an  
Office, Trust or Station..."



22-20264

A writ of Mandamus is available... to control an arbitrary or capricious exercise of discretion. *Barnes v. Eighth Judicial District Court*, 103 Nev 697, 748 p.2d 483 (1982)

Where no discretion is given to an officer or body, Mandamus lies to enforce a performance of the specific act required. *Douglas Co. Bd of County Comm'ns v. Peterson*, 78 Nev 106, 369 p.2d 669 (1962)

The dismissal of a case is a refusal on the part of the dismissing court to hear and determine the cause, and the party aggrieved in such a proceeding may properly invoke a writ of mandamus to compel the court to set the cause and proceed to its determination, *Hawington v. Holler*, 111 U.S. 796, 4 S.Ct. 697. The right of a party litigant to a judgment of a court upon the merits of the matter litigated is the fundamental aim of the law. The object of courts primarily is that they should assume the function of legal and equitable arbiters and decide controversies upon their merits. *Floyd v. Sixth Judicial District Court*, 36 Nev 349, 135 p. 922 (1913)

### Request

This petition for writ of Mandamus is to compel the District Court to reinstate petitioners habeas corpus and proceed to its determination upon the merits through a full and fair Evidentiary Hearing. Therefore this petition must be heard by a Superior Authority, viz, The Nevada Court of Appeals or the Nevada Supreme Court. The case in question is CA11-0833 Dept. 4

## The Act.

NAS 34.770 Judicial determination of need for evidentiary hearing:  
Dismissal of petition or granting of writ

1. The Judge or Justice, upon review of the Return, Answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required.

2. If the Judge or Justice determines that the petitioner is not entitled to relief and an evidentiary hearing is not required, the Judge or Justice shall dismiss the petition without a hearing.

3. If the Judge or Justice determines that an evidentiary hearing is required, the Judge or Justice shall grant the writ and shall set a date for the hearing.

NAS 34.770, NAS 34.800 and NAS 34.812 provide the manner in which the district court decides a post-conviction petition for writ of habeas corpus. These statutes do not provide for summary judgment as a method for determining the merits of a post-conviction petition for writ of habeas corpus. *Beets v. State*, 110 N.W.2d 339, 871 P.2d 357 (1994)

The material facts were not adequately developed in the District Court's Motion to Dismiss Hearing.

The merits of the factual dispute were not resolved in the District Court's Motion to Dismiss Hearing.

The fact-finding procedure employed by the District Court was not adequate to afford a full and fair hearing on the merits, and not authorized under NAS 34.770.

County of Perishing: )  
Affidavit of Travis Bowles in  
support of writ of Mandamus

Petitioner, Travis Bowles, received the Order of Affirmance from his conviction, 6/13/13, on 9/24/13 petitioner filed his proper petition for writ of habeas corpus, stopping his 1 year to file clock per NR334.226(1), 11/12/13 The State Answered, denying all allegations in the petition, placing all claims in contest, 1/2/14 petitioner amended his writ of habeas corpus, 3/18/14, The State Answered, denying all allegations in the petition, again placing all grounds in contest, 5/2/14 Evidentiary Hearing set for 10/10/14, 5/12/15 petitioner's counsel filed a supplemental petition for writ of Habeas corpus which supplemented but did not supplant petitioner's Amended petition. 8/20/15 the state filed a motion to dismiss petition and supplemental petition, which was in effect the State's Answer, arguing the merits of each and every claim, failing to raise any claim of statutory or procedural barment, simply asking the court to dismiss each claim without an Evidentiary Hearing. 10/1/15 petitioner's counsel filed an opposition to the Motion to Dismiss. 10/22/15 State filed a Reply in support of motion to dismiss.

With each and every claim being contested, All grounds within the petition, Amended petition and Supplemental petition were ripe for an Evidentiary Hearing on the merits, expansion of the record and perpetuation of testimony.

### The Omission

11/9/15 The District Court exceeded its authority in ordering a Motion to Dismiss Hearing. 3/8/16 The District Court holds a fictitious and unauthorized Motion to Dismiss (Non-Evidentiary) Hearing. Throughout this hearing petitioner's counsel reminds the Court of the need for an evidentiary hearing, to no avail.

Most of petitioner's claims were raised as Ineffective Assistance of Counsel, there were also questions of law and Jurisdictional challenges. The Court heard argument of Habeas Counsel, though No Trial or Appellate Counsel were there to testify as to why or why not they chose to act or not act, There was No expansion of the record.

8/11/16 The District Court Ordered the dismissal of petitioner's Amended and supplements upon the merits though No evidentiary hearing was held.

No documents relied upon in this decision were submitted into the record prior to entry of order per NR 534.745(a) "If the Judge... relies on the record of the Court in entering an order pursuant to this section, Those records must be made a part of the record of the proceedings before entry of the order. Thus this decision was made without evidence upon a baseless, empty record. This cannot stand.

under penalty of perjury

Signed Travis Bowles  
Travis Bowles

Dated 6/17/22

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In the case at bar, the dismissal of petitioner's habeas corpus petition without an Evidentiary Hearing was a refusal on the part of the District Court to proceed as required to an Evidentiary Hearing, denying petitioner's statutory right per NRS 34.770, his constitutional right per Nevada Constitution, Art 1 § 5 and the U.S. Constitution Art 1 § 9, where having obtained Jurisdiction the District Court refused to proceed in its exercise of that Jurisdiction.

Petitioner contends that this act by District Court Judge Connie Steinheimer clearly demonstrates the extraordinary lengths that she will go to hide her clear and palpable bias for the prosecution and against the petitioner.

Petitioner also contends that his 9 year clock per NRS 34.726(1) remained stopped when the District Court decided to violate petitioner's statutory and constitutional rights and requests this court to recognize this fact in its decision.

Petitioner herein requests this Honorable Court under color of NRS 34.160 wherein it states to wit: "The writ may <sup>be</sup> issued by the Supreme Court, the Court of Appeals... to compel the performance of an act which the law especially enjoins as a duty resulting from an office, Trust or station..." To compel the Second Judicial District Court to set the Case CR11-0833 Habeas Corpus and proceed to its determination by Habeas Corpus Evidentiary Hearing, to reappoint counsel for the petitioner, where Mandamus is the proper remedy.

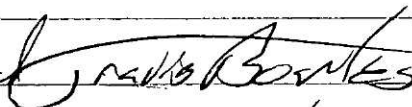
## Conclusion

For the protection of petitioner's Civil Rights to Due process of Law and equal protection of the law under the Fourteenth Amendment, Petitioner prays this Court find the defendant at fault and grant his writ and compel the above specified performance as required by Law and in the interests of Justice order Judge Connie Steinheimer of the Second Judicial District Court to Answer or otherwise show cause as to why this writ should not issue.

## AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

Date: 6/18/22

Signed   
Travis Bowles  
proper

**CERTIFICATE OF SERVICE BY MAIL**

Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner\Defendant named herein and that on this 22<sup>nd</sup> day of June 2022, I mailed a true a correct copy of the foregoing document to the following:

Second Judicial District Court  
Dept. 4, Clerk of the Court  
75 Court Street  
Reno, NV 89501

Aaron D. Ford  
Attorney General  
State of Nevada  
555 E. Washington Ave., Ste 3100  
Las Vegas, NV 89101

James Bowles