

IN THE SUPREME COURT OF THE STATE OF NEVADA

JANET SOLANDER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Dec 22 2021 01:13 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-21-840177-W

Docket No: 83874

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
JANET SOLANDER #1200370,
PROPER PERSON
4370 SMILEY RD.
LAS VEGAS, NV 89115

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

I N D E X

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FILED

AUG 26 2021

John J. Blum
CLERK OF COURT

Janet Solander #1200370

FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER
4370 Smiley Road
Las Vegas, NV 89115

IN THE 8th JUDICIAL DISTRICT COURT of the STATE OF NEVADA

In and for the COUNTY OF Clark

Janet Solander

PLAINTIFF/PETITIONER

v.
State of Nevada

DEFENDANT/RESPONDENT

Case No. A-21-840177-W
Dept. 15

PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)

1. Name of the institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: Florence McClure Womens Correctional Center
2. Name and location of the court which entered the judgment of conviction under attack:
8th Judicial District Court of the State of Nevada
in and for the County of Clark
3. Date of Judgment of Conviction: June 5, 2018
4. Case Number: C-14-299737-3
5. Length of sentence: 35 to life
If sentence is death, state any date upon which execution is scheduled: N/A
6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? YES ☐ NO ☒ If "YES", list the crime(s), case number(s) and sentence(s) being served at this time: _____
7. Nature of offense involved in conviction being challenged: Reduce my sentence

CLERK OF THE COURT

AUG 23 2021

RECEIVED

8. What was your plea? (check one)

a) Not guilty ☒ b) Guilty ☐ c) Guilty but mentally ill ☐ (d) Nolo contendere ☐

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

N/A

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

a) JURY ☒ (b) JUDGE WITHOUT A JURY ☐

11. Did you testify at the trial? YES ☐ NO ☒

12. Did you appeal from the judgment of conviction? YES ☒ NO ☐

13. If you do appeal, answer the following:

(a) Name of Court: Nevada Supreme Court
(b) Case Number/Citation: 76228
(c) Result: Affirmance
(d) Date of Result: November 2020

**** ATTACH A COPY OF ORDER/REMITTITUR/DECISION, IF AVAILABLE ****

14. If you DID NOT appeal, explain briefly why: N/A

15. Other than a direct appeal from a judgment of conviction/ sentence, have you previously filed any petitions, applications or motions with respect to this judgment in state or federal court? YES ☐ NO ☒

16. If you answered YES to question 15, provide the following information:

(a) Name of Court: N/A
(b) Type of proceeding: N/A
(c) Grounds raised: N/A
(d) Did you receive an evidentiary hearing? YES ☐ NO ☒ N/A
(e) Result of hearing: N/A Date of result: N/A
(f) Citations of any written opinion, date of orders entered pursuant to result (if known):
N/A

17. **SECOND PETITION FILED/APPLICATION/MOTION** (if filed):

- (a) Name of Court: N/A
- (b) Type of proceeding: N/A
- (c) Grounds raised: N/A
- (d) Did you receive an evidentiary hearing? YES ☐ NO ☒ N/A
- (e) Result of hearing: N/A Date of result: N/A
- (f) Citations of any written opinion, date of orders entered pursuant to result (if known):
N/A

18. **THIRD/SUBSEQUENT PETITIONS** – list same information as in # 17 on separate sheet and attach.

19. Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

- 1) **First petition**, application, or motion? YES ☐ NO ☒ N/A
Citation or date of decision: _____
- 2) **Second petition**, application, or motion? YES ☐ NO ☒ N/A
Citation or date of decision: _____
- 3) **Third petition**, application or motion? YES ☐ NO ☒ N/A
Citation or date of decision: _____
- 4) **IF YOU DID NOT APPEAL** from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).
N/A

20. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify:

- A. Which of the grounds is the same: Ground 2
- B. Proceedings in which these grounds were raised: Ground 1 and Ground 2 and 3
- C. Briefly explain why you are raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).

See grounds 1, 2, 3,

21. If any of the grounds listed in this petition, OR listed on any additional pages you have attached, were NOT previously presented in any other state court or federal court, list briefly what ground/s were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).

N/A

22. Are you filing this petition more than ONE (1) YEAR following the filing of the judgment of conviction or the filing of a decision on Direct Appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).

N/A

23. Do you have any petition or appeal now pending in any state court or federal court as to the judgment under attack? YES ☐ NO ☒
IF YES, give both court and case number: _____

24. Give the name of EACH/EVERY attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

Caitlyn McEamis - Trial Counsel / Direct Appeal
David Fidler - Trial Counsel
Kristina Wildaveld - Trial Counsel

25. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? YES ☐ NO ☒
IF YES, specify where and when the sentence is to be served (if you know): N/A

26. State concisely EVERY ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating grounds and the facts supporting each ground.

A. GROUND ONE:

Amendment 6 - Ineffective assistance of Counsel

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

Performance was deficient and resulting in prejudice

B. GROUND TWO:

Amendment 5 - Due Process of law

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

The State failed to demonstrate all collected
and established physical evidence

C. GROUND THREE:

Amendment 14 - Cumulative Errors

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

The cumulations of demonstrating errors and
violations substantially effected my rights in
ground 1 and ground 2

D. GROUND FOUR:

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

Petitioner asks that this court grant Petitioner relief to which s/he may be entitled in this proceeding.

Dated this 12th day of August, 2021

Respectfully submitted,

Janet Solander
Signature, Pro Se Litigant

Janet Solander
Print Name

GROUND 1
(continued)

6 I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to Ineffective Counsel, based on these facts:

Counsel did not perform the duties when representing me during my trial. Counsel met with me for less than two hours on the Friday prior to my trial which began that Monday. This resulted in them not being prepared during my trial. Counsel called only one witness who testified on my behalf, despite the list of witnesses I suggested that would have contradicted many of the States witnesses testimonies.

After my trial and sentencing, my counsel filed an "Appeal from Judgment of Conviction" on April 17, 2019. On March 13, 2020, I received a letter from my counsel that they were set to argue my case before the Nevada Supreme Court on April 15, 2020; however, due to Covid, that date was rescheduled for June 10, 2020. In that letter from my counsel, I was informed that they would update me as soon as there was a decision. Again, due to Covid, I was not able to contact my counsel until January 14, 2021. I had not heard nor received anything to date from the Nevada Supreme Court, nor my counsel. After seven letters and phone calls, my counsel answered on April 23, 2021, informing me that my case was denied and I will need new counsel to move forward.

GROUND 2
(continued)

5 I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to Due Process of law, based on these facts:

The State failed to prove beyond a reasonable doubt that
I was guilty of sexual assault of a minor under fourteen
Committing battery with intent to commit sexual assault.
The States expert witness testified that it would be
diffieult, if not impossible for even a trained medical professional
to insert a catheter tubing in the urethra with one hand.
Furthermore, this witness stated that it is more often
done by two persons, and the insertion is done using a
threading motion. Two of the "victims" testified that I
held them down with one hand, and inserted the
catheter tubing with the other hand. Additionally, the
youngest daughter stated that I took a paint stick stirrer
and forcibly shoved it in her vagina several times, yet
the States expert witness found no signs of sexual
assault on any of the three girls.
The charge for "Assault with a deadly weapon"
was testified by one of the girls that I held a
razor blade in one hand, and inserted a catheter
tubing in the other hand. This also contradicts
the States expert witness testimony on the improbability
of using one hand to insert a catheter tubing.
The State did not prove beyond a reasonable doubt

GROUND 2
(continued)

5 I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to Due Process of Law, based on these facts:

Child abuse and neglect with substantial bodily harm. There are scars on the childrens buttocks, back, and legs that the States expert witness could not determine the age of the scars and litigature marks, only that they were not recent. Additionally, stating that the marks were consistant with a belt. One of the girls stated that I did not spank them with a belt, but their grandmother did (biological grandmother). Because the children were foster children, the Dept. of Family Services were requiced to take photos of marks on all foster childrens bodies prior to plaeing them in a new or a different foster home. The DFS did not have photos of the girls scars prior to placing them in our home; however, the girls current adopted mother testified that she in fact did have photos of the girls when she was their foster mother but she "threw them away." Regarding the youngest child who was burned in the shower with sealding water, the States expert witness testified that the scar is consistent with someone pouring water on her from above, or similar to being in the shower

GROUND 2
(continued)

5 I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to Due process of law, based on these facts:

where water is coming down from above; yet, the
witness testified that I turned her upside down
into the bathroom sink with running hot water. This
testimony was inconsistent with the States expert witness
testimony. The photo of the witness was an email
sent to my co-defendant. The State did not disclose the
email to the jury, only the photo. The jury would have
known that the child was treated at the hospital, and
that the eldest sister admitted to doing it in the shower.
Due to the State's witness bolstering, a charge of
me forcing eldest child to lick her own urine, I was found
guilty even though eldest child admitted to lying about it.
The State withheld Key evidence that was relevant to
my case, yet the court sided with the state. In the current
adopted mother's home, all three of the children repeatedly
ran away from her home. Additionally, at the time of the
trial, the eldest child was in a home for troubled children,
According to CPS, there is or was an open case, and the
adoptive father was documented as stating he didn't want
the kids in his home. We sent these girls to a Christian
School for girls out of state because of their behavior,
yet the court sided with the State that CPS record
was not relevant to my case

GROUND 3
(continued)

14 I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to Cumulate Errors, based on these facts:

The cumulations of demonstrating errors and violations substantially affected my rights in ground 1 and ground 2; therefore, I request that my sentence be reduced.

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 12th day of August, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID Number

Janet Solander
Print Name

¹ NRS 171.102 Complaint defined; oath or declaration required. The complaint is a written statement of the essential facts constituting the public offense charged. It must be made upon:

1. Oath before a magistrate or a notary public; or
2. Declaration which is made subject to the penalty for perjury.
(Added to NRS by 1967, 1400; A 1969, 387; 1983, 446)

² NRS 208.165 Execution of instrument by prisoner. A prisoner may execute any instrument by signing his or her name immediately following a declaration "under penalty of perjury" with the same legal effect as if he or she had acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in this section, "prisoner" means a person confined in any jail or prison, or any facility for the detention of juvenile offenders, in this state.
(Added to NRS by 1985, 1643)

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

(Added Pub. L. 94-550, §1(a), Oct. 18, 1976, 90 Stat. 2534.)

PRIOR PROVISIONS

A prior section 1746 was renumbered section 1745 of this title.

§ 1621. Perjury generally

Whoever--

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88-619, § 1, Oct. 3, 1964, 78 Stat. 995; Pub. L. 94-550, § 2, Oct. 18, 1976, 90 Stat. 2534; Pub. L. 103-322, title

XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF CLARK

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: C-14-299737-3

On this 12th day of August, 2021, I mailed a copy of the

Following document(s):

1. Petition for Writ of Habeas Corpus (Post Conviction)

2. _____

3. _____

4. _____

5. _____

By United States First Class Mail, to the following addresses:

1. Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89115

2. Attorney General - Nevada
555 E Washington Ave. Ste. 3900
Las Vegas, NV 89101

3. _____

4. _____

Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander
signature

Janet Solander
Printed Name

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DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 12th day of August, 2021

Janet Solander
Signature

1300370
Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

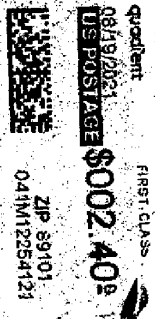
§ 1621. Perjury generally

Janet Solander #1200370
Fmwe
4370 Smiley Rd.
Las Vegas, NV 89115

79975 8240
2615 2559824

Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89155

Confidential
Legal Mail



Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

FILED

AUG 26 2021

In The 8th Judicial District Court of the State of Nevada
In and for the County of Clark

[Signature]
CLERK OF COURT

In the matter of:

Janet Solander)
Plaintiff/Petitioner)
v. State of Nevada)
Defendant/Respondent)

Case No: **A-21-840177-W**

Dept. 15

Dept No.: _____

REQUEST FOR SUBMISSION OF MOTION

It is requested that the Motion for

Petition for writ of Habeas Corpus (Post Conviction)

which was filed on the 12th day of August, 2021, in the above-entitled matter be submitted
to the Court for decision.

The undersigned certifies that a copy of this request has been mailed to all counsel of record.

Dated this 12th day of August, 2021

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Print Name

RECEIVED
AUG 23 2021
CLERK OF THE COURT

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of¹ NRS 171.102 and ² NRS 208.165. See ³ 28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 12th day of August, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury
18 U.S.C.

§ 1621. Perjury generally

FILED
AUG 26 2021

John L. Williams
CLERK OF COURT

1 Florence McClure Women's Correctional Center
2 4370 Smiley Rd.
3 Las Vegas, NV 89115

3 In the 8th Judicial District Court of the State of Nevada
4 In and for the County of Clark

5 In the matter of:

6 Janet Solander
7 Plaintiff/Petitioner
8 State of Nevada
9 Defendant/Respondent

Case No: **A-21-840177-W**
Dept. No. **Dept. 15**

9 MOTION FOR APPOINTMENT OF COUNSEL

10 COMES NOW Petitioner, Janet Solander, In Proper
11 Person and hereby moves this Honorable Court for an order to Appoint Counsel
12 in the above-entitled action, pursuant to NRS 34.720, with the Fundamental
13 Provisions of Art. I., Sec.'s 8 and 10, of the Nevada Constitution, and the
14 U.S. 1st Amendment (Right to Petition for the Redress of Constitutional
15 Grievances), and the U.S. 14th Amendment (Right to Due Process Clause) in the
16 Constitution of these United States.

17 This Motion is made and based upon all papers, pleadings, and exhibits
18 within Court records, the Application to Proceed In Forma Pauperis and upon
19 Oral Arguments, if this Court deems it proper and necessary for the
20 disposition of the instant Motion.

21
22 Dated this 12th day of August, 2021

23 Respectfully submitted,

24 Janet Solander
25 Signature
26 Janet Solander
27 Print Name
28

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 12th day of August, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID Number

Janet Solander
Print Name

¹ NRS 171.102 Complaint defined; oath or declaration required. The complaint is a written statement of the essential facts constituting the public offense charged. It must be made upon:

1. Oath before a magistrate or a notary public; or
2. Declaration which is made subject to the penalty for perjury.
(Added to NRS by 1967, 1400; A 1969, 387; 1983, 446)

² NRS 208.165 Execution of instrument by prisoner. A prisoner may execute any instrument by signing his or her name immediately following a declaration "under penalty of perjury" with the same legal effect as if he or she had acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in this section, "prisoner" means a person confined in any jail or prison, or any facility for the detention of juvenile offenders, in this state.
(Added to NRS by 1985, 1643)

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".
(Added Pub. L. 94-550, §1(a), Oct. 18, 1976, 90 Stat. 2534.)

PRIOR PROVISIONS

A prior section 1746 was renumbered section 1745 of this title.

§ 1621. Perjury generally

Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88-619, § 1, Oct. 3, 1964, 78 Stat. 995; Pub. L. 94-550, § 2, Oct. 18, 1976, 90 Stat. 2534; Pub. L. 103-322, title

XXXIII, § 330016(1)(i), Sept. 13, 1994, 108 Stat. 2147.)

1 Florence McClure Women's Correctional Center
2 4370 Smiley Rd.
3 Las Vegas, NV 89115

4 In The 8th Judicial District Court of the State of Nevada
5 In and for the County of Clark

6 In the matter of:

7 Janet Solander

8 Plaintiff/Petitioner

9 v. State of Nevada

10 Defendant/Respondent

Case No: C-14-299737-3

Dept No.: _____

11 AFFIDAVIT

12 STATE OF NEVADA)

13 COUNTY OF Clark)

- 14 1. I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent in the above
15 entitled action. I have personal knowledge of the facts contained
16 in the above-entitled case and am competent to testify to these
17 facts.
18 2. My personal knowledge or personal observations of the situation
19 is/are as follows:

20 I am requesting appointment of counsel, as
21 my previous counsel has completed their contract
22 to represent me once a decision was handed down
23 from the Supreme Court of Nevada.

24 I am unable to afford counsel and I am not
25 legal savvy. This process is very difficult for
26 me to understand

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Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Printed Name

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 12th day of August, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF CLARK

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: C-14-299737-3

On this 12th day of August, 2021, I mailed a copy of the

Following document(s):

1. Motion for appointment of counsel
2. _____
3. _____
4. _____
5. _____

By United States First Class Mail, to the following addresses:

1. Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89115
2. Attorney General - Nevada
555 E. Washington Ave ^{Ste. 3900}
Las Vegas, NV 89101
3. _____

Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander
Signature
Janet Solander
Printed Name

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Dated this 12th day of August, 2021
Janet Solander 1200370
Signature Nevada Department of Corrections ID #

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18 U.S.C.

§ 1621. Perjury generally

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF Clark

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: C-14-299737-3

On this 12th day of August, 2021, I mailed a copy of the

Following document(s):

1. Petition for writ of Habeas Corpus (Post-Conviction)
2. Request for submission of motion
3. Motion to withdraw Counsel
4. Motion for appointment of Counsel
5. In forma Pauperis /financial certificate

By United States First Class Mail, to the following addresses:

1. Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89115

2. Attorney General - Nevada
555 E Washington Ave. Ste 3900
Las Vegas, NV 89101

3. _____

4. _____

Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander
Signature
Janet Solander
Printed Name

CLERK OF THE COURT

RECEIVED
AUG 23 2021

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Dated this 12th day of August, 2021
Jarret Solander 1200370
Signature Nevada Department of Corrections ID #

¹ NRS 171.102
² NRS 208.165
³ 28 U.S.C.
§1746. Unsworn declarations under penalty of perjury
18 U.S.C.
§ 1621. Perjury generally

FILED
AUG 26 2021

Ann L. Blum
CLERK OF COURT

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In the 84th Judicial District Court of the State of Nevada

In and for the County of Clark

In the matter of:

Janet Solander

Plaintiff/Petitioner

v. State of Nevada

Defendant/Respondent

Case No: **A-21-840177-W**
Dept. 15

Dept No.

MOTION TO WITHDRAW COUNSEL

COMES NOW Defendant, Janet Solander, In Proper

Person and hereby moves this Honorable Court for an ORDER granting her permission to withdraw her present counsel of record in the proceeding action.

This Motion is made and based upon all papers, pleadings, and exhibits on file with the Court which are hereby incorporated by this reference, the Points and Authorities herein, and attached Affidavit of Defendant.

Dated this 12th day of August, 2021

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Print Name

CLERK OF THE COURT

AUG 23 2021

RECEIVED

1 POINTS AND AUTHORITIES

2 NRS 7.055 states in pertinent part:

- 3 1. An attorney who has been discharged by his client shall
4 upon demand and payment of the fee due from the client,
5 immediately deliver to the client all papers, documents,
6 pleadings and items of tangible personal property which
7 belong to or were prepared for that client.
8 2. ...If the court finds that an attorney has, without just
9 cause, refused or neglected to obey its order given under
10 this section, the court may, after notice and fine or
11 imprison him until contempt purged. If the Court finds
12 that the attorney has, without just cause, withheld the
13 client's papers, documents, pleadings, or other property,
14 the attorney is liable for costs and attorney's fees.

15 Counsel in the above-entitled case was court-appointed due to
16 Defendant's indigence. Defendant does not owe counsel any fees.

17 WHEREFORE, Defendant prays this Honorable Court, **GRANT** her Motion to
18 Withdraw Counsel and that counsel deliver Defendant all papers, documents,
19 pleadings, discovery and any other tangible property which belong to or were
20 prepared for the Defendant to allow Defendant the proper assistance that is
21 needed to insure that justice is served.

22 Dated this 12th day of August, 2021

23 Respectfully submitted,

24 Janet Solander
25 Signature
26 Janet Solander
27 Print Name
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1 Florence McClure Women's Correctional Center
2 4370 Smiley Rd.
3 Las Vegas, NV 89115

4 In The 8th Judicial District Court of the State of Nevada
5 In and for the County of Clark

6 In the matter of:

7 Janet Solander

8 Plaintiff/Petitioner

9 v. State of Nevada

10 Defendant/Respondent

Case No: C-14-299737

Dept No.: _____

11 AFFIDAVIT

12 STATE OF NEVADA)

13 COUNTY OF Clark)

- 14 1. I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent in the above
15 entitled action. I have personal knowledge of the facts contained
16 in the above-entitled case and am competent to testify to these
17 facts.
18 2. My personal knowledge or personal observations of the situation
19 is/are as follows:

20 My attorney met with me for less than two hours of preparation
21 on the Friday before my trial began that following Monday; therefore,
22 they were not prepared throughout my trial. During my trial
23 neither of my attorneys discussed anything with me regarding
24 my case, they only spoke amongst themselves. There was only
25 one witness who testified on my behalf, but only regarding
26 emails that DFS state workers were sending among them-
27 selves regarding a book I published. The entire list of
28 witnesses that I requested my attorneys to subpoena were
ignored, even though they would have contradicted the
several of the states witnesses testimonies. After my
trial and sentencing, my attorney filed a direct appeal from
judgment of conviction on April 17, 2019. On March 13, 2020 I

received a letter from my attorney that they were ready to argue my case before the Nevada Supreme Court on June 10, 2020. In that same letter my attorney stated that she would update me as soon as the Court made a decision. I never received an update. Once the institution was lifted from lockdown partially, I called my attorney (Jan. 14, 2021) and was told that my appeal request was denied, and that she would send me the information I needed to proceed, and to call her the following week. After several letters and calling twice a week, Kristina Wildcove finally answered, told me I should have info from NSC and that her office will no longer need to represent me.

Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander

Signature

Janet Solander

Printed Name

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

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Dated this 12th day of August, 2021

Janet Solander

Signature

1200370

Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF CLARK

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: C-14-299737-3

On this 12th day of August, 2021, I mailed a copy of the

Following document(s):

1. Motion to withdraw Counsel

2. _____

3. _____

4. _____

5. _____

By United States First Class Mail, to the following addresses:

1. Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89105

2. Attorney General - Nevada
555 E. Washington Ave. ^{STE} 3900
Las Vegas, NV 89101

3. _____

4. _____

Dated this 12th day of August, 2021.

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Printed Name

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Dated this 12th day of August, 2021

Janet Solanda
Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102
² NRS 208.165
³ 28 U.S.C.
§1746. Unsworn declarations under penalty of perjury
18 U.S.C.
§ 1621. Perjury generally

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Janet Solander,

Petitioner,

vs.

State of Nevada,

Respondent,

Case No: A-21-840177-W
Department 15

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

Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on August 26, 2021. The Court has reviewed the Petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

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

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

October 28, 2021 at 8:30 a.m.

Calendar on the _____ day of _____, 20____, at the hour of _____

~~_____ o'clock~~ for further proceedings.

Dated this 30th day of August, 2021

Joe Hardy

District Court Judge

**B98 A18 6D86 AAFE
Joe Hardy
District Court Judge**

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 Janet Solander, Plaintiff(s) CASE NO: A-21-840177-W
7 vs. DEPT. NO. Department 15
8 State of Nevada, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

13
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 8/31/2021

16 Janet Solander #1200370
17 FMECC
18 4370 Smiley Road
19 Las Vegas, NV, 89115
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DISTRICT COURT
CLARK COUNTY, NEVADA



Janet Solander, Plaintiff(s)

Case No.: A-21-840177-W

vs.

State of Nevada, Defendant(s)

Department 15

NOTICE OF HEARING

Please be advised that the 1) Plaintiff's Motion to Withdraw Counsel 2) Plaintiff's Motion for Appointment of Counsel in the above-entitled matter are set for hearing as follows:

Date: October 28, 2021

Time: 8:30 AM

Location: RJC Courtroom 11D
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



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Respondent

DISTRICT COURT
CLARK COUNTY, NEVADA

JANET SOLANDER,
#5870905

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: **A-21-840177-W**
(C-14-299737-3)

DEPT NO: **XV**

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

DATE OF HEARING: **OCTOBER 28, 2021**
TIME OF HEARING: **8:30 AM**

The State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JONATHAN E. VANBOSKERCK, Chief Deputy District Attorney, hereby submits the attached Points and Authorities in this State's Response to Petition for Writ of Habeas Corpus.

This Response 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 July 28, 2014 the State filed an Information that charged Janet Solander (hereinafter
4 “Petitioner”) with CHILD ABUSE, NEGLECT OR ENDANGERMENT WITH
5 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.508(1) - NOC 55222),
6 CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS 200.508(1)
7 - NOC 55226), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
8 AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), ASSAULT WITH USE OF
9 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201) and BATTERY
10 WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400.4 -
11 NOC 50157).

12 Petitioner sought pre-trial habeas relief on November 5, 2014. She alleged a failure to
13 establish probable cause and that sexual assault was a specific-intent crime requiring sexual
14 motivation. The State filed a Return on December 17, 2014. On June 17, 2015, the District
15 Court granted relief in part.

16 Both Petitioner and the State appealed, and, on April 13, 2016, the Nevada Supreme
17 Court reversed. While agreeing that “if the Solanders undertook the catheterization for a bona
18 fide medical purpose, they may avoid criminal liability,” the Court held that jurors should
19 determine whether Solander had such a purpose. The Court explicitly rejected the Petitioner’s
20 argument that sexual assault “includes an element of sexual motivation or gratification.”

21 On January 4, 2018, the State filed their Notice of Expert Witnesses. Petitioner sought
22 to strike on January 28, 2018. The State opposed on February 2, 2018.

23 The State filed a prior-bad-acts motion seeking to admit evidence of Petitioner’s abuse
24 of foster children. Petitioner opposed on January 18, 2018.

25 On January 22, 2018, Petitioner’s co-defendant filed a motion to suppress victim
26 interviews. Petitioner joined. The State responded on February 1, 2018.

27 On January 31, 2018, the District Court began a two-day hearing on the prior-bad-acts
28 motion.

1 A twenty-day jury trial began on February 5, 2018. On February 6, 2018, the State filed
2 an Amended Information. The jury found Petitioner guilty of each count.

3 Petitioner was sentenced on June 5, 2018. Her sentence included eleven counts of thirty-
4 five years to life for the sexual-assault counts. The other sentences ran consecutive to each
5 other. The Judgment of Conviction was filed on June 22, 2018.

6 A Notice of Appeal was filed on June 21, 2018. On October 27, 2020, the Supreme
7 Court of Nevada affirmed the Judgment of Conviction. Remittitur issued October 26, 2020.

8 On August 26, 2021, Petitioner filed the instant Petition. On August 30, 2021, the Court
9 ordered the State to respond.

10 **STATEMENT OF FACTS**

11 This case involves the systemic abuse of three young girls over a period of several
12 years. The oldest, A.S.(2001), was born on October 21, 2001. The middle sister, A.S.(2003),
13 was born on January 23, 2003. The youngest, A.S.(2004), was born on July 25, 2004.

14 The sisters were removed from their biological families. After a short time with another
15 family, they were placed with Debbie McClain. They lived with McClain for a year and a half.
16 A.S.(2001) and A.S.(2003) were potty trained and did not have accidents during their time
17 with McClain. McClain fed the sisters regular food, but A.S.(2004) was a picky eater. During
18 their time with McClain, the girls did not have “any scars either to the flanks of their body,
19 their buttocks, [or] their upper thighs.”

20 The girls were fostered to the Solanders. The Solanders ultimately adopted them. They
21 lived in two different houses during their time with the Solanders. The first home, when they
22 were foster children, was on “Jubilee.” The second was on “Wakashan.”

23 In the Jubilee house, Petitioner implemented rules about using the bathroom. They had
24 to ask before using the toilet, and Petitioner would set a timer on either her phone or a physical
25 timer for “however much time she felt like” the girls needed to “hold it.” They could not use
26 the toilet until the timer was up.

27 //

28 //

1 The girls were fed regular food at Jubilee for a short period of time. Eventually,
2 Petitioner changed their diet, alleging that A.S.(2001) had Crohn's disease. During the time
3 that the sisters were foster children, Petitioner did not physically punish them. This changed
4 after adoption. Petitioner would make them sleep on boards or towels with a cold fan blowing
5 on them in only their underwear. The other foster children had their own beds. Danielle Hinton
6 remembered her mother threatening the sisters with "the fan" if they acted up, even in the
7 wintertime.

8 After the adoption, Petitioner's toileting rules remained rigid. The girls still had to ask,
9 and only after they had asked, Petitioner would start the timer. Petitioner would get upset with
10 the girls for not asking earlier. They found it confusing that they had to first ask, and they
11 sometimes got in trouble when they had to go too much when the timer finally rang. At times,
12 they would have to wait so long either after Petitioner started the timer or during the middle
13 of the night that they would wet themselves. Petitioner counted the squares of toilet paper the
14 girls could use. Because they were so limited, their feces would sometimes leave marks on
15 their underwear. The Solanders would check the sisters' underwear for these marks. These
16 rules were corroborated by Jan Finnegan and Hinton. Petitioner would make them sit on
17 buckets and the youngest sit on a tiny toilet all day with their underwear pulled slightly down
18 rather than letting them use the toilet as needed. Hinton saw the girls use their buckets as
19 toilets.

20 Even during the night, the girls had to ask before they could go to the bathroom.
21 Eventually, Petitioner revoked nocturnal toileting. A camera faced the upstairs bathroom.
22 Having been forbidden from using the toilet at night, the girls would soil themselves. Dwight
23 Petitioner enforced this rule by placing gates and alarms on a bathroom door. He was often
24 out of town for work, meaning that Petitioner was the main instigator of punishments.

25 The girls developed a fear of toileting. This led to multiple accidents daily. When the
26 girls were left in the care of others, the toileting problems would cease.

27 Petitioner kicked the girls up and down the stairs. When they were showering, she
28 would pour ice on them. Hinton saw her mother get the ice and heard the girls scream.

1 If they had an accident, the Solanders would beat them with paint sticks until they would
2 bleed and scar. Hinton witnessed these beatings. I.S.(2008), one of the foster children, testified
3 that she saw this “every day” and that Dwight make her and her sister “be the audience” and
4 laugh at the sisters as they were being beaten. Petitioner would force the girls to put their soiled
5 underwear into their mouths. Once, after A.S.(2004) had an accident, Petitioner took the paint
6 stick and inserted it into A.S.(2004)’s vagina. On another occasion, Petitioner burned
7 A.S.(2004) while she was washing her hands by turning the temperature up and holding her
8 hands under the water and then splashing her with hot water, badly burning her skin. State’s
9 Exhibit 192. Petitioner forced A.S.(2004)’s head into a toilet filled with excrement and, on
10 more than one occasion, made her stand naked in a garbage bag as she soiled herself. When
11 A.S.(2001) had an accident, Petitioner made her lick her own urine off the floor. Another time,
12 Petitioner slammed A.S.(2001)’s head into a counter repeatedly after she had an accident.
13 A.S.(2006), a foster child, witnessed Dwight spanking the sisters with their pants down with a
14 “ruler that was pretty thick.” I.S.(2008) remembered seeing each of the sisters being hit with
15 paint sticks seeing scabs and burns on their bodies from Petitioner burning them with water.

16 The Solanders humiliated the girls by making them crawl on the floor in cloth diapers
17 saying that they were babies while the foster children and Danielle Hinton watched. As they
18 crawled doing their “I’m-a-baby chant,” the Solanders would make them wear their soiled
19 underwear on their heads or carry them in their mouths.

20 Dwight Solander purchased six catheters on December 8, 2012, and three days later, on
21 December 11, 2012, Petitioner sent Dwight a picture of a catheter filled with urine and a
22 subject line which read “300 cc’s.” State’s Exhibits 204,243. Petitioner also regularly punished
23 the sisters by inserting catheters into their urethras without their consent and by threatening to
24 cut their genitalia with a razor blade. She did this to A.S.(2003) once, to A.S.(2001) more than
25 once, and to A.S.(2004) between 7-8 times. Petitioner had to hold A.S.(2004) down as she
26 inserted the catheter because she would fight. Hinton heard the Solanders threaten the girls
27 with catheters and saw a catheter in her house. She told police that the Solanders used catheters
28 on the girls, but that she couldn’t personally watch.

Petitioner limited the sisters' meals as punishment for accidents. When they did eat, their meals were timed and often blended. A.S.(2001) would "usually have baby formula and milk" which was blended occasionally with bread. Other times, she would have oatmeal mixed with fish, or quinoa. Dinner was collard greens, beans, horseradish, and fish along with "several other kinds of meat" which Petitioner would blend together.

To eat, A.S.(2001) would have to stand by the sink. Jan Finnegan testified that the girls were required to eat breakfast standing up while the other children in the home could eat at the table. As A.S.(2001) ate, Petitioner would tell A.S.(2001) that she had ground up a mouse or a rat into her meal. She would also tell A.S.(2001) that the fish had been alive. For liquids, A.S.(2001) would get water with medicine or after bathroom breaks. Meals were served without a drink. She was so thirsty that she would drink water from the shower or brushing her teeth. Petitioner saw A.S.(2001) drink shower water and slapped her, cutting and bruising her lip. Finnegan testified that the girls “weren’t allowed” to be given water at dinner, in the middle of the day, or “[h]ardly ever.”

At first, A.S.(2001) would get three meals each day. Then two, breakfast and dinner, then one, then, at times, none. The Solanders forbade Finnegan from feeding the sisters lunch even though the other children in the home could eat. The meals caused A.S.(2001) to use the toilet more. Hungry, A.S.(2001) would sneak into the pantry to get food. Petitioner beat her with a stick.

Petitioner also severely limited A.S.(2003)'s food intake by timing her meals and letting her go hungry. In response, she would take food in violation of Petitioner's rules. At times, she would, while sitting on her bucket, watch Petitioner eat a hearty breakfast and hungrily wait to be fed. A.S.(2004) was also left to go hungry.

Foster Sibling Corroboration

I.S.(2008) and A.S.(2006) lived with the Solanders as foster children. They corroborated the sisters' testimony about Solander's strict toileting rules. I.S.(2008) testified that Petitioner would watch the sisters as they used the restroom.

//

Petitioner forbade A.S.(2006) from eating dairy even though she did not have any stomach problems. After she was removed from the Petitioner house, she did not have any toileting problems or lactose intolerance.

A.S.(2006) further corroborated the sisters' testimony regarding blended food and the eating conditions. Further, she remembered Petitioner talking about using catheters on one of the sisters and orange Home Depot buckets in the kitchen.

Jan Finnegan

In January 2013, Finnegan responded to Petitioner’s nanny ad. Finnegan observed two cameras—one in the kitchen and one on the second floor “looking down towards the entrance of the bathroom.”

Finnegan corroborated the sisters' testimony about Petitioner's strict bathroom rules and that the rules did not apply to the other children. When she tried to do laundry, Dwight told her to refrain so that he could see the sister's underwear. Despite the rules, none of the children had any toileting accidents during the entire three weeks Finnegan was there. Further, the sisters did not have any severe tantrums or disturbing emotional behavior.

Finnegan corroborated the sisters' testimony that Petitioner would strictly control their diets while allowing the foster children to eat normal food. The Solanders forbade Finnegan from giving the girls food outside of breakfast and dinner, they were required to eat breakfast standing, their food had to be blended, and they could not be given water. To justify this, Dwight cited vague "intestinal problems." Finnegan would sneak them solid, unblended food every day without any resulting intestinal problems.

Finnegan testified that the sisters were not disobedient and that they were well behaved.

Investigation

On February 26, 2014, Shining Star Therapeutic Services sent a report to CPS about two of Petitioner's foster children. On February 27, 2014, Yvette Gonzales, a senior family services specialist with CPS, visited the school of one of the children. She decided to remove the children.

//

1 Gonzales reported to the Solander house and asked to see the remaining foster children.
2 She asked Petitioner where her adoptive daughters were, and Petitioner said they were in
3 Nebraska but refused to provide contact information. Gonzales said she was “going to file a
4 missing persons report” if Petitioner did not provide her with more information. Petitioner
5 asked Gonzales to leave, and CPS took the foster children.

6 On February 28, 2014, Gonzales contacted the Las Vegas Metropolitan Police
7 Department Missing Persons Detail. A detective contacted Dwight, who said the girls were in
8 Marvelous Grace Academy in Pace, Florida. The director of the academy, Steven Blankenship,
9 confirmed that the girls were there.

10 Gonzales decided to have someone speak with the sisters. Jackie Henry from the
11 Department of Family Services contacted the girls. Henry put them in protective custody, and
12 the Solanders’ rights over them were removed. CPS opened an investigation. The police
13 department was asked to determine if the Solanders had committed any crimes.

14 Gonzales interviewed Dwight and informed him that a protective custody hearing
15 would be held. On March 5, 2014, the hearing was conducted. The girls were returned to
16 Nevada and expressed fear over returning to the Solander’s home.

17 On March 13, 2014, the girls were examined by Dr. Sandra Cetl. She conducted a sexual
18 assault assessment of each child. She found nothing significant, but she testified that the
19 administration of a catheter would not result in scarring or tearing. She did find marks on
20 A.S.(2001) during the physical evaluation that caused her concern. She found scars on the
21 buttocks, “in between the thighs right almost to the genital area, and [on] the lower back area.”
22 The marks near the buttocks were larger and “had some shape to them” and were in an area
23 that people do not typically injure. Her left buttock had a linear scar. This was consistent with
24 being hit with a paint stick. The mark was caused by blunt force trauma. The physical
25 examination of A.S.(2003) revealed marks on her buttocks, legs, and back which were
26 consistent with blunt force trauma. “[T]he top of her right shoulder” had “substantial scar
27 tissue.”. Cetl was “concerned that it may have been from a burn, maybe a scald burn.” Her
28 lower back had a linear scar. A.S.(2004) had scars on her buttocks and back which were

1 consistent with blunt force trauma. She had “a light lightening from the skin from ... scarring
2 on her right ear.” A scar ran down her shoulder that looked like a “hot liquid type of a burn.”
3 The doctor noted concerns about the growth of the girls.

4 ***McClain***

5 In March 2014, the girls were returned to live with McClain. They had changed
6 tremendously, and McClain believed that she “didn’t get the same kids back.” A.S.(2001) was
7 withdrawn and depressed. A.S.(2003) was argumentative, “real angry,” and quick to blame
8 others. A.S.(2004) was confused about everything. By the time the girls were returned, they
9 were not having toileting accidents and properly digesting food. They had marks and scars on
10 their bodies which “were not there previously.”

11 ***Medical***

12 Cetl testified that the genital area included the labia majora, the vagina, and the urethral
13 opening. The labia majora generally completely enclose the inner parts of female genitalia,
14 and they must be spread to get to the inner areas. 19AA4623. Dr. Elizabeth Miletic testified that
15 she would never recommend that a parent administer a catheter to check their child’s bladder,
16 and that she did not recommend catheterization of A.S.(2003). Dr. Alphonsa Stephen testified
17 that she never recommended that Petitioner administer a catheter to A.S.(2004).

18 **ARGUMENT**

19 **I. PETITIONER’S ARGUMENTS IN GROUND TWO ARE BARRED**

20 **A. The Law of The Case Bars Petitioner’s Sufficiency of The Evidence Claims**

21 The arguments in Ground two (2) of the petition are procedurally barred by the law of
22 the case given that the Nevada Supreme Court ruled on them. The law of a first appeal is law
23 of the case on all subsequent appeals in which the facts are substantially the same.” Hall v.
24 State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343,
25 455 P.2d 34, 38 (1969)). “The doctrine of the law of the case cannot be avoided by a more
26 detailed and precisely focused argument subsequently made after reflection upon the previous
27 proceedings.” Id. at 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously
28 decided on direct appeal may not be reargued. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d

1 519, 532 (2001) (citing McNelton v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275
2 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.
3 Art. VI § 6.

4 Petitioner argues that the State failed to prove beyond a reasonable doubt that she was
5 guilty. Petitioner already argued this claim on direct appeal. The Nevada Supreme Court
6 concluded that there was sufficient evidence:

7 Solander challenges her convictions of sexual assault of a minor under
8 14 years of age and batter with intent to commit sexual assault.

...

9 Considering all the evidence, we conclude a rational trier of fact could
10 find the elements of sexual assault of a minor under 14 years of age
11 and batter with intent to commit sexual assault beyond a reasonable
12 doubt for each of Solander's convictions.

...

12 Solander next challenges her convictions for child abuse with
13 substantial bodily harm by means of spanking the victims with a paint
14 stick

...

15 Based on this evidence a rational trier of fact could have found each
16 essential element of the crime beyond a reasonable doubt.

17 Lastly, Solander contends that the State failed to prove count 11
18 beyond a reasonable doubt because A.S. (2001) recanted the
19 allegation.

...

20 Thus, a rational trier of fact could have found each essential element
21 of the crime beyond a reasonable doubt.

22 Solander v. State, No. 76228, 2020 WL 3603882, at *2-6 (July 1, 2020). The law of the case
23 bars Petitioner from relitigating these claims. Thus, this Court should not consider Ground two
24 (2) of the Petition.

25 **B. Petitioner's Claim Regarding the CPS Records Should Have Been Raised on**
26 **Direct Appeal**

27 At the end of Ground two, Petitioner asserts that the court incorrectly ruled that certain
28 evidence was not relevant. This claim should have been raised on direct appeal. NRS
34.724(2)(a); NRS 34.810(1)(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

1 Her failure to do so bars this claim.

2 Petitioner's failure to prove good cause or prejudice requires the dismissal of this claim.
3 To overcome this bar, a petitioner must demonstrate: (1) good cause for delay in filing her
4 petition or for bringing new claims or repeating claims in a successive petition; and (2) undue
5 or actual prejudice. NRS 34.726(1); NRS 34.800(1); NRS 34.810(3). To establish prejudice
6 "a petitioner must show that errors in the proceedings underlying the judgment worked to the
7 petitioner's actual and substantial disadvantage." State v. Huebler, 128 Nev. 192, 197, 275
8 P.3d 91, 94-95 (2012), cert. denied, 568 U.S. 1147, 133 S.Ct. 988 (2013).

9 "To establish good cause, petitioners must show that an impediment external to the
10 defense prevented their compliance with the applicable procedural rule. A qualifying
11 impediment might be shown where the factual or legal basis for a claim was not reasonably
12 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003),
13 rehearing denied, 120 Nev. 307, 91 P.3d 35 cert. denied, 543 U.S. 947, 125 S.Ct. 358 (2004);
14 see also, Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to
15 demonstrate good cause, a petitioner must show that an impediment external to the defense
16 prevented him or her from complying with the state procedural default rules"); Pellegrini, 117
17 Nev. at 887, 34 P.3d at 537 (neither ineffective assistance of counsel, nor a physician's
18 declaration in support of a habeas petition were sufficient "good cause" to overcome a
19 procedural default, whereas a finding by Supreme Court that a defendant was suffering from
20 Multiple Personality Disorder was). An external impediment could be "that the factual or legal
21 basis for a claim was not reasonably available to counsel, or that 'some interference by
22 officials' made compliance impracticable." Id. (quoting Murray v. Carrier, 477 U.S. 478, 488,
23 106 S.Ct. 2639, 2645 (1986)); see also, Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing
24 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

25 The Nevada Supreme Court has held that, "appellants cannot attempt to manufacture
26 good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a
27 "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at
28 506; (quoting, Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), superseded by

1 statute as recognized by, Huebler, 128 Nev. at 197, 275 P.3d at 95, footnote 2). Excuses such
2 as the lack of assistance of counsel when preparing a petition as well as the failure of trial
3 counsel to forward a copy of the file to a petitioner have been found not to constitute good
4 cause. Phelps v. Dir. Nev. Dep't of Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988),
5 superseded by statute as recognized by, Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145
6 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

7 Petitioner makes no good cause argument for why this Court should consider her claim.
8 Failure to address good cause amounts to an admission that she is unable to do so. DCR 13(2);
9 EDCR 3.20(b); Polk v. State, 126 Nev. 180, 186, 233 P.3d 357, 360-61 (2010). Nowhere in
10 her petition does Petitioner address the issue of good cause. She fails to allege any
11 impediments that necessitated bringing a claim outside of appeal. Thus, Petitioner's silence
12 should be read as an admission that no good cause exists.

13 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner
14 had all the facts and law necessary to allege this claim. Thus, Petitioner should have been able
15 to allege it on appeal. Based on Petitioner's failure to properly allege good cause, this Court
16 should deny this claim on these grounds and not consider the prejudice prong of the analysis.

17 Petitioner's failure to address good cause necessitates the dismissal of this claim.
18 However, Petitioner also fails to properly allege prejudice. "A court *must* dismiss a habeas
19 petition if it presents claims that either were or could have been presented in an earlier
20 proceeding, unless the court finds both cause for failing to present the claims earlier or for
21 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646–
22 47, 29 P.3d 498, 523 (2001). To demonstrate prejudice to overcome the procedural bars, a
23 defendant must show "not merely that the errors of [the proceeding] created possibility of
24 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state
25 proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952, 960,
26 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584,
27 1596 (1982)). To find good cause there must be a "substantial reason; one that affords a legal
28 excuse." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v.

1 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

2 Petitioner cannot face prejudice, as she alleges nothing more than a bare and naked
3 claim. “Bare” and “naked” allegations are not sufficient to warrant post-conviction relief, nor
4 are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d
5 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by the record
6 as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228,
7 1230 (2002). Petitioner fails to cite law or explain the impropriety of the Court’s prior ruling.
8 Thus, this claim is improperly plead and suitable only for summary denial.

9 **II. PETITIONER DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**
10 **COUNSEL**

11 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
12 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
13 defense.” The United States Supreme Court has long recognized that “the right to counsel is
14 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,
15 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
16 (1993).

17 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
18 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test
19 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865
20 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel’s
21 representation fell below an objective standard of reasonableness, and second, that but for
22 counsel’s errors, there is a reasonable probability that the result of the proceedings would have
23 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
24 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
25 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
26 inquiry in the same order or even to address both components of the inquiry if the defendant
27 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

28 //

1 The court begins with the presumption of effectiveness and then must determine
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
4 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
5 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. Ennis
8 v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the “immediate
9 and ultimate responsibility of deciding if and when to object, which witnesses, if any, to call,
10 and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

11 Based on the above law, the role of a court in considering allegations of ineffective
12 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
13 whether, under the particular facts and circumstances of the case, trial counsel failed to render
14 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
15 (1978). This analysis does not mean that the court should “second guess reasoned choices
16 between trial tactics nor does it mean that defense counsel, to protect himself against
17 allegations of inadequacy, must make every conceivable motion no matter how remote the
18 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
19 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
20 cannot create one and may disserve the interests of his client by attempting a useless charade.”
21 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

22 “There are countless ways to provide effective assistance in any given case. Even the
23 best criminal defense attorneys would not defend a particular client in the same way.”
24 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
25 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
26 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
27 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
28 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s

1 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

2 Even if a defendant can demonstrate that his counsel's representation fell below an
3 objective standard of reasonableness, she must still demonstrate prejudice and show a
4 reasonable probability that, but for counsel’s errors, the result of the trial would have been
5 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
6 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
7 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
8 694, 104 S. Ct. at 2064-65, 2068).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
11 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
12 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
13 be supported with specific factual allegations, which if true, would entitle the petitioner to
14 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
17 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
18 petition to be dismissed.” (emphasis added).

19 There is a strong presumption that appellate counsel's performance was reasonable and
20 fell within “the wide range of reasonable professional assistance.” See United States v.
21 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
22 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
23 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
24 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
25 have had a reasonable probability of success on appeal. Id.

26 The professional diligence and competence required on appeal involves “winnowing
27 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
28 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In

1 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
2 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
3 For judges to second-guess reasonable professional judgments and impose on appointed
4 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very
5 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

6 **A. Counsel Did Not Provide Ineffective Assistance of Counsel By Meeting with**
7 **Petitioner the Friday Before Trial**

8 Petitioner claims that counsel met with her for less than two hours the Friday prior to
9 trial. Petitioner is not entitled to a particular relationship with counsel. Morris v. Slappy, 461
10 U.S. 1, 13-14, 103 S. Ct 1610, 1616 (1983). There is no requirement that Counsel meet with
11 Petitioner for an unspecified period the day prior to trial. Additionally, Petitioner fails to show
12 how she was prejudiced by this. Petitioner must show how “further communication would
13 have had a reasonable probability of altering the outcome at trial.” Marquez v. State, 455 P.3d,
14 840, 2020 WL 405466 (Nev. 2020) (unpublished). Petitioner simply states that this caused him
15 to not be prepared. Petitioner never specifies in detail a different outcome at trial. Therefore,
16 Petitioner’s argument is insufficient to demonstrate ineffective assistance of counsel and
17 should be summarily denied. Browning v. State, 120 Nev. 347, 357, 91 P.3d 39, 47 (2004);
18 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

19 **B. Petitioner only Asserts Bare and Naked Claims Regarding Counsel’s Failure**
20 **to Call Witnesses**

21 Petitioner claims Counsel failed to call certain witnesses. However, Counsel maintains
22 the “immediate and ultimate responsibility of deciding if and when to object, which witnesses,
23 if any, to call, and what defenses to develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167.
24 Additionally, Petitioner does not state what witnesses Counsel should have called or what
25 these unknown witnesses would testify to. Without such information, Petitioner cannot
26 demonstrate how these witnesses would affect the outcome of trial. Thus, Petitioner’s
27 argument is “bare” and “naked” and suitable only for summary denial. Browning v. State, 120
28 Nev. at 357, 91 P.3d at 47 (2004); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1 **C. Petitioner Fails to Demonstrate How Appellate Counsel Provided Ineffective**
2 **Assistance**

3 Petitioner claims that Appellate Counsel failed to inform her about the status of her
4 appeal from January 14, 2021, until April 22, 2021. Even if this is true, Petitioner fails to
5 explain how she is prejudiced by this. By this point, Petitioner's Appellate Counsel already
6 submitted Appellant's Opening Brief and appeared at oral argument. Additionally, Petitioner
7 still had the ability to file a timely habeas petition during this time. Since Petitioner cannot
8 show prejudice, this Court should deny her claim.

9 **III. THERE WAS NO CUMULATIVE ERROR**

10 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
11 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
12 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
13 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
14 Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of errors,
15 none of which would by itself meet the prejudice test.")

16 Nevertheless, even where available a cumulative error finding in the context of a
17 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
18 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
19 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
20 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
21 2007) ("where individual allegations of error are not of constitutional stature or are not errors,
22 there is 'nothing to cumulate.'" (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
23 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
24 543, 552-53 (5th Cir. 2005)). Because Petitioner has not demonstrated that any claim warrants
25 relief under Strickland, there is nothing to cumulate. Therefore, Petitioner's cumulative error
26 claim should be denied.

27 Notwithstanding a cumulative error analysis not being applicable, Petitioner has failed
28 to demonstrate cumulative error sufficient to warrant reversal. In addressing a claim of

1 cumulative error, the relevant factors are: 1) whether the issue of guilt is close; 2) the quantity
2 and character of the error; and 3) the gravity of the crime charged. Mulder v. State, 116 Nev.
3 1, 17, 992 P.2d 845, 854-5 (2000). While Petitioner was charged with serious offenses, she is
4 unable to demonstrate any error. This is because her claims are either barred or meritless.
5 Without any error, there can be no aggregation of errors. Additionally, the issue of guilt is not
6 close given that the Nevada Supreme Court already held there was sufficient proof to justify a
7 guilty verdict. Thus, this Court should deny Petitioner's claim as she cannot show cumulative
8 error.

9 **IV. PETITIONER IS NOT ENTITLED TO COUNSEL**

10 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-
11 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566
12 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada
13 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right
14 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to
15 counsel provision as being coextensive with the Sixth Amendment to the United States
16 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)
17 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
18 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at
19 164, 912 P.2d at 258.

20 The Nevada Legislature has, however, given courts the discretion to appoint post-
21 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and
22 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

23 A petition may allege that the Defendant is unable to pay the costs of
24 the proceedings or employ counsel. If the court is satisfied that the
25 allegation of indigency is true and the petition *is not dismissed*
26 *summarily*, the court may appoint counsel at the time the court orders
the filing of an answer and a return. In making its determination, the
court may consider whether:

- 27 (a) The issues are difficult;
28 (b) The Defendant is unable to comprehend the proceedings; or
(c) Counsel is necessary to proceed with discovery.

1 Under NRS 34.750, it is clear that the court has discretion in determining whether to
2 appoint counsel. More recently, the Nevada Supreme Court examined whether a district court
3 appropriately denied a defendant's request for appointment of counsel based upon the factors
4 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In Renteria-
5 Novoa, the petitioner had been serving a prison term of eighty-five (85) years to life. Id. at 75,
6 391 P.3d at 760. After his judgment of conviction was affirmed on direct appeal, the defendant
7 filed a pro se postconviction petition for writ of habeas corpus and requested counsel be
8 appointed. Id. The district court ultimately denied the petitioner's petition and his appointment
9 of counsel request. Id. In reviewing the district court's decision, the Nevada Supreme Court
10 examined the statutory factors listed under NRS 34.750 and concluded that the district court's
11 decision should be reversed and remanded. Id. The Court explained that the petitioner was
12 indigent, his petition could not be summarily dismissed, and he had in fact satisfied the
13 statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor, the Court concluded that
14 because petitioner had represented he had issues with understanding the English language
15 which was corroborated by his use of an interpreter at his trial, that was enough to indicate that
16 the petitioner could not comprehend the proceedings. Id. Moreover, the petitioner had
17 demonstrated that the consequences he faced—a minimum eighty-five (85) year sentence—
18 were severe and his petition may have been the only vehicle for which he could raise his
19 claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of counsel claims
20 may have required additional discovery and investigation beyond the record. Id.

21 Here, Petitioner has not demonstrated that counsel should be appointed. The issues here
22 are not difficult as part of Petitioner's claims were already ruled upon by the Nevada Supreme
23 Court. The remaining claims are meritless. Additionally, Petitioner's claims do not require any
24 additional discovery. Therefore, Petitioner's request should be denied.

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CONCLUSION

For the foregoing reasons, the Court should deny Petitioner’s Petition for Writ of Habeas Corpus.

DATED this 1st day of October, 2021.

Respectfully submitted,

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

BY /s/ Jonathan E. VanBoskerck
JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528

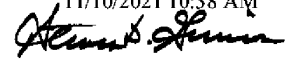
CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 1st day of OCTOBER 2021, to:

JANET SOLANDER, BAC#1200370
F.M.W.C.C.
4370 SMILEY ROAD
LAS VEGAS, NV 89115

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

hjc/SVU


CLERK OF THE COURT

FCL
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Nevada Bar #001565
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DISTRICT COURT
CLARK COUNTY, NEVADA

JANET SOLANDER,
#5870905

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-840177-W

DEPT NO: XV

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

THIS CAUSE having been decided by the Honorable Joe Hardy, District Judge, pursuant to a Minute Order issued on the 28th day of October 2021, the State present via Blue Jeans, 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:

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1 A twenty-day jury trial began on February 5, 2018. On February 6, 2018, the State filed
2 an Amended Information. The jury found Petitioner guilty of each count.

3 Petitioner was sentenced on June 5, 2018. Her sentence included eleven counts of thirty-
4 five years to life for the sexual-assault counts. The other sentences ran consecutive to each
5 other. The Judgment of Conviction was filed on June 22, 2018.

6 A Notice of Appeal was filed on June 21, 2018. On October 27, 2020, the Supreme
7 Court of Nevada affirmed the Judgment of Conviction. Remittitur issued October 26, 2020.

8 On August 26, 2021, Petitioner filed the instant Petition. On August 30, 2021, the Court
9 ordered the State to respond.

10 **FACTUAL BACKGROUND**

11 This case involves the systemic abuse of three young girls over a period of several
12 years. The oldest, A.S.(2001), was born on October 21, 2001. The middle sister, A.S.(2003),
13 was born on January 23, 2003. The youngest, A.S.(2004), was born on July 25, 2004.

14 The sisters were removed from their biological families. After a short time with another
15 family, they were placed with Debbie McClain. They lived with McClain for a year and a half.
16 A.S.(2001) and A.S.(2003) were potty trained and did not have accidents during their time
17 with McClain. McClain fed the sisters regular food, but A.S.(2004) was a picky eater. During
18 their time with McClain, the girls did not have “any scars either to the flanks of their body,
19 their buttocks, [or] their upper thighs.”

20 The girls were fostered to the Solanders. The Solanders ultimately adopted them. They
21 lived in two different houses during their time with the Solanders. The first home, when they
22 were foster children, was on “Jubilee.” The second was on “Wakashan.”

23 In the Jubilee house, Petitioner implemented rules about using the bathroom. They had
24 to ask before using the toilet, and Petitioner would set a timer on either her phone or a physical
25 timer for “however much time she felt like” the girls needed to “hold it.” They could not use
26 the toilet until the timer was up.

27 The girls were fed regular food at Jubilee for a short period of time. Eventually,
28 Petitioner changed their diet, alleging that A.S.(2001) had Crohn’s disease. During the time

1 that the sisters were foster children, Petitioner did not physically punish them. This changed
2 after adoption. Petitioner would make them sleep on boards or towels with a cold fan blowing
3 on them in only their underwear. The other foster children had their own beds. Danielle Hinton
4 remembered her mother threatening the sisters with "the fan" if they acted up, even in the
5 wintertime.

6 After the adoption, Petitioner's toileting rules remained rigid. The girls still had to ask,
7 and only after they had asked, Petitioner would start the timer. Petitioner would get upset with
8 the girls for not asking earlier. They found it confusing that they had to first ask, and they
9 sometimes got in trouble when they had to go too much when the timer finally rang. At times,
10 they would have to wait so long either after Petitioner started the timer or during the middle
11 of the night that they would wet themselves. Petitioner counted the squares of toilet paper the
12 girls could use. Because they were so limited, their feces would sometimes leave marks on
13 their underwear. The Solanders would check the sisters' underwear for these marks. These
14 rules were corroborated by Jan Finnegan and Hinton. Petitioner would make them sit on
15 buckets and the youngest sit on a tiny toilet all day with their underwear pulled slightly down
16 rather than letting them use the toilet as needed. Hinton saw the girls use their buckets as
17 toilets.

18 Even during the night, the girls had to ask before they could go to the bathroom.
19 Eventually, Petitioner revoked nocturnal toileting. A camera faced the upstairs bathroom.
20 Having been forbidden from using the toilet at night, the girls would soil themselves. Dwight
21 Petitioner enforced this rule by placing gates and alarms on a bathroom door. He was often
22 out of town for work, meaning that Petitioner was the main instigator of punishments.

23 The girls developed a fear of toileting. This led to multiple accidents daily. When the
24 girls were left in the care of others, the toileting problems would cease.

25 Petitioner kicked the girls up and down the stairs. When they were showering, she
26 would pour ice on them. Hinton saw her mother get the ice and heard the girls scream.

27 If they had an accident, the Solanders would beat them with paint sticks until they would
28 bleed and scar. Hinton witnessed these beatings. I.S.(2008), one of the foster children, testified

1 that she saw this "every day" and that Dwight make her and her sister "be the audience" and
2 laugh at the sisters as they were being beaten. Petitioner would force the girls to put their soiled
3 underwear into their mouths. Once, after A.S.(2004) had an accident, Petitioner took the paint
4 stick and inserted it into A.S.(2004)'s vagina. On another occasion, Petitioner burned
5 A.S.(2004) while she was washing her hands by turning the temperature up and holding her
6 hands under the water and then splashing her with hot water, badly burning her skin. State's
7 Exhibit 192. Petitioner forced A.S.(2004)'s head into a toilet filled with excrement and, on
8 more than one occasion, made her stand naked in a garbage bag as she soiled herself. When
9 A.S.(2001) had an accident, Petitioner made her lick her own urine off the floor. Another time,
10 Petitioner slammed A.S.(2001)'s head into a counter repeatedly after she had an accident.
11 A.S.(2006), a foster child, witnessed Dwight spanking the sisters with their pants down with a
12 "ruler that was pretty thick." I.S.(2008) remembered seeing each of the sisters being hit with
13 paint sticks seeing scabs and burns on their bodies from Petitioner burning them with water.

14 The Solanders humiliated the girls by making them crawl on the floor in cloth diapers
15 saying that they were babies while the foster children and Danielle Hinton watched. As they
16 crawled doing their "I'm-a-baby chant," the Solanders would make them wear their soiled
17 underwear on their heads or carry them in their mouths.

18 Dwight Solander purchased six catheters on December 8, 2012, and three days later, on
19 December 11, 2012, Petitioner sent Dwight a picture of a catheter filled with urine and a
20 subject line which read "300 cc's." State's Exhibits 204,243. Petitioner also regularly punished
21 the sisters by inserting catheters into their urethras without their consent and by threatening to
22 cut their genitalia with a razor blade. She did this to A.S.(2003) once, to A.S.(2001) more than
23 once, and to A.S.(2004) between 7-8 times. Petitioner had to hold A.S.(2004) down as she
24 inserted the catheter because she would fight. Hinton heard the Solanders threaten the girls
25 with catheters and saw a catheter in her house. She told police that the Solanders used catheters
26 on the girls, but that she couldn't personally watch.

27 Petitioner limited the sisters' meals as punishment for accidents. When they did eat,
28 their meals were timed and often blended. A.S.(2001) would "usually have baby formula and

1 milk” which was blended occasionally with bread. Other times, she would have oatmeal mixed
2 with fish, or quinoa. Dinner was collard greens, beans, horseradish, and fish along with
3 “several other kinds of meat” which Petitioner would blend together.

4 To eat, A.S.(2001) would have to stand by the sink. Jan Finnegan testified that the girls
5 were required to eat breakfast standing up while the other children in the home could eat at the
6 table. As A.S.(2001) ate, Petitioner would tell A.S.(2001) that she had ground up a mouse or
7 a rat into her meal. She would also tell A.S.(2001) that the fish had been alive. For liquids,
8 A.S.(2001) would get water with medicine or after bathroom breaks. Meals were served
9 without a drink. She was so thirsty that she would drink water from the shower or brushing
10 her teeth. Petitioner saw A.S.(2001) drink shower water and slapped her, cutting and bruising
11 her lip. Finnegan testified that the girls “weren’t allowed” to be given water at dinner, in the
12 middle of the day, or “[h]ardly ever.”

13 At first, A.S.(2001) would get three meals each day. Then two, breakfast and dinner,
14 then one, then, at times, none. The Solanders forbade Finnegan from feeding the sisters lunch
15 even though the other children in the home could eat. The meals caused A.S.(2001) to use the
16 toilet more. Hungry, A.S.(2001) would sneak into the pantry to get food. Petitioner beat her
17 with a stick.

18 Petitioner also severely limited A.S.(2003)’s food intake by timing her meals and letting
19 her go hungry. In response, she would take food in violation of Petitioner’s rules. At times,
20 she would, while sitting on her bucket, watch Petitioner eat a hearty breakfast and hungrily
21 wait to be fed. A.S.(2004) was also left to go hungry.

22 *Foster Sibling Corroboration*

23 I.S.(2008) and A.S.(2006) lived with the Solanders as foster children. They
24 corroborated the sisters’ testimony about Solander’s strict toileting rules. I.S.(2008) testified
25 that Petitioner would watch the sisters as they used the restroom.

26 Petitioner forbade A.S.(2006) from eating dairy even though she did not have any
27 stomach problems. After she was removed from the Petitioner house, she did not have any
28 toileting problems or lactose intolerance.

1 A.S.(2006) further corroborated the sisters' testimony regarding blended food and the
2 eating conditions. Further, she remembered Petitioner talking about using catheters on one of
3 the sisters and orange Home Depot buckets in the kitchen.

4 *Jan Finnegan*

5 In January 2013, Finnegan responded to Petitioner's nanny ad. Finnegan observed two
6 cameras—one in the kitchen and one on the second floor "looking down towards the entrance
7 of the bathroom."

8 Finnegan corroborated the sisters' testimony about Petitioner's strict bathroom rules
9 and that the rules did not apply to the other children. When she tried to do laundry, Dwight
10 told her to refrain so that he could see the sister's underwear. Despite the rules, none of the
11 children had any toileting accidents during the entire three weeks Finnegan was there. Further,
12 the sisters did not have any severe tantrums or disturbing emotional behavior.

13 Finnegan corroborated the sisters' testimony that Petitioner would strictly control their
14 diets while allowing the foster children to eat normal food. The Solanders forbade Finnegan
15 from giving the girls food outside of breakfast and dinner, they were required to eat breakfast
16 standing, their food had to be blended, and they could not be given water. To justify this,
17 Dwight cited vague "intestinal problems." Finnegan would sneak them solid, unblended food
18 every day without any resulting intestinal problems.

19 Finnegan testified that the sisters were not disobedient and that they were well behaved.

20 *Investigation*

21 On February 26, 2014, Shining Star Therapeutic Services sent a report to CPS about
22 two of Petitioner's foster children. On February 27, 2014, Yvette Gonzales, a senior family
23 services specialist with CPS, visited the school of one of the children. She decided to remove
24 the children.

25 Gonzales reported to the Solander house and asked to see the remaining foster children.
26 She asked Petitioner where her adoptive daughters were, and Petitioner said they were in
27 Nebraska but refused to provide contact information. Gonzales said she was "going to file a
28 missing person's report" if Petitioner did not provide her with more information. Petitioner

1 asked Gonzales to leave, and CPS took the foster children.

2 On February 28, 2014, Gonzales contacted the Las Vegas Metropolitan Police
3 Department Missing Persons Detail. A detective contacted Dwight, who said the girls were in
4 Marvelous Grace Academy in Pace, Florida. The director of the academy, Steven Blankenship,
5 confirmed that the girls were there.

6 Gonzales decided to have someone speak with the sisters. Jackie Henry from the
7 Department of Family Services contacted the girls. Henry put them in protective custody, and
8 the Solanders' rights over them were removed. CPS opened an investigation. The police
9 department was asked to determine if the Solanders had committed any crimes.

10 Gonzales interviewed Dwight and informed him that a protective custody hearing
11 would be held. On March 5, 2014, the hearing was conducted. The girls were returned to
12 Nevada and expressed fear over returning to the Solander's home.

13 On March 13, 2014, the girls were examined by Dr. Sandra Cetl. She conducted a sexual
14 assault assessment of each child. She found nothing significant, but she testified that the
15 administration of a catheter would not result in scarring or tearing. She did find marks on
16 A.S.(2001) during the physical evaluation that caused her concern. She found scars on the
17 buttocks, "in between the thighs right almost to the genital area, and [on] the lower back area."
18 The marks near the buttocks were larger and "had some shape to them" and were in an area
19 that people do not typically injure. Her left buttock had a linear scar. This was consistent with
20 being hit with a paint stick. The mark was caused by blunt force trauma. The physical
21 examination of A.S.(2003) revealed marks on her buttocks, legs, and back which were
22 consistent with blunt force trauma. "[T]he top of her right shoulder" had "substantial scar
23 tissue.". Cetl was "concerned that it may have been from a burn, maybe a scald burn." Her
24 lower back had a linear scar. A.S.(2004) had scars on her buttocks and back which were
25 consistent with blunt force trauma. She had "a light lightening from the skin from ... scarring
26 on her right ear." A scar ran down her shoulder that looked like a "hot liquid type of a burn."
27 The doctor noted concerns about the growth of the girls.

28 //

1 *McClain*

2 In March 2014, the girls were returned to live with McClain. They had changed
3 tremendously, and McClain believed that she “didn’t get the same kids back.” A.S.(2001) was
4 withdrawn and depressed. A.S.(2003) was argumentative, “real angry,” and quick to blame
5 others. A.S.(2004) was confused about everything. By the time the girls were returned, they
6 were not having toileting accidents and properly digesting food. They had marks and scars on
7 their bodies which “were not there previously.”

8 *Medical*

9 Cetl testified that the genital area included the labia majora, the vagina, and the urethral
10 opening. The labia majora generally completely enclose the inner parts of female genitalia,
11 and they must be spread to get to the inner areas. 19AA4623. Dr. Elizabeth Mileti testified that
12 she would never recommend that a parent administer a catheter to check their child’s bladder,
13 and that she did not recommend catheterization of A.S.(2003). Dr. Alphonsa Stephen testified
14 that she never recommended that Petitioner administer a catheter to A.S.(2004).

15 **ANALYSIS**

16 **I. PETITIONER’S ARGUMENTS IN GROUND TWO ARE BARRED**

17 **A. The Law of The Case Bars Petitioner’s Sufficiency of The Evidence Claims**

18 The arguments in Ground two (2) of the petition are procedurally barred by the law of
19 the case given that the Nevada Supreme Court ruled on them. The law of a first appeal is law
20 of the case on all subsequent appeals in which the facts are substantially the same.” Hall v.
21 State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343,
22 455 P.2d 34, 38 (1969)). “The doctrine of the law of the case cannot be avoided by a more
23 detailed and precisely focused argument subsequently made after reflection upon the previous
24 proceedings.” Id. at 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously
25 decided on direct appeal may not be reargued. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d
26 519, 532 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275
27 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.
28 Art. VI § 6.

1 Petitioner argues that the State failed to prove beyond a reasonable doubt that she was
2 guilty. Petitioner already argued this claim on direct appeal. The Nevada Supreme Court
3 concluded that there was sufficient evidence:

4 Solander challenges her convictions of sexual assault of a minor
5 under 14 years of age and batter with intent to commit sexual
6 assault.

7 ...
8 Considering all the evidence, we conclude a rational trier of fact
9 could find the elements of sexual assault of a minor under 14 years
10 of age and batter with intent to commit sexual assault beyond a
11 reasonable doubt for each of Solander's convictions.

12 ...
13 Solander next challenges her convictions for child abuse with
14 substantial bodily harm by means of spanking the victims with a
15 paint stick

16 ...
17 Based on this evidence a rational trier of fact could have found
18 each essential element of the crime beyond a reasonable doubt.
19 Lastly, Solander contends that the State failed to prove count 11
20 beyond a reasonable doubt because A.S. (2001) recanted the
21 allegation.

22 ...
23 Thus, a rational trier of fact could have found each essential
24 element of the crime beyond a reasonable doubt

25 Solander v. State, No. 76228, 2020 WL 3603882, at *2-6 (July 1, 2020). The law of the case
26 bars Petitioner from relitigating these claims. Thus, this Court finds that the law of the case
27 bars Ground two (2) of the Petition.

28 **B. Petitioner's Claim Regarding the CPS Records Should Have Been Raised on
Direct Appeal**

 At the end of Ground two, Petitioner asserts that the court incorrectly ruled that certain
evidence was not relevant. This claim should have been raised on direct appeal. NRS
34.724(2)(a); NRS 34.810(1)(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).
Her failure to do so bars this claim.

1 Petitioner's failure to prove good cause or prejudice requires the dismissal of this claim.
2 To overcome this bar, a petitioner must demonstrate: (1) good cause for delay in filing her
3 petition or for bringing new claims or repeating claims in a successive petition; and (2) undue
4 or actual prejudice. NRS 34.726(1); NRS 34.800(1); NRS 34.810(3). To establish prejudice
5 "a petitioner must show that errors in the proceedings underlying the judgment worked to the
6 petitioner's actual and substantial disadvantage." State v. Huebler, 128 Nev. 192, 197, 275
7 P.3d 91, 94-95 (2012), cert. denied, 568 U.S. 1147, 133 S.Ct. 988 (2013).

8 "To establish good cause, petitioners must show that an impediment external to the
9 defense prevented their compliance with the applicable procedural rule. A qualifying
10 impediment might be shown where the factual or legal basis for a claim was not reasonably
11 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003),
12 rehearing denied, 120 Nev. 307, 91 P.3d 35 cert. denied, 543 U.S. 947, 125 S.Ct. 358 (2004);
13 see also, Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to
14 demonstrate good cause, a petitioner must show that an impediment external to the defense
15 prevented him or her from complying with the state procedural default rules"); Pellegrini, 117
16 Nev. at 887, 34 P.3d at 537 (neither ineffective assistance of counsel, nor a physician's
17 declaration in support of a habeas petition were sufficient "good cause" to overcome a
18 procedural default, whereas a finding by Supreme Court that a defendant was suffering from
19 Multiple Personality Disorder was). An external impediment could be "that the factual or legal
20 basis for a claim was not reasonably available to counsel, or that 'some interference by
21 officials' made compliance impracticable." Id. (quoting Murray v. Carrier, 477 U.S. 478, 488,
22 106 S.Ct. 2639, 2645 (1986)); see also, Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing
23 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

24 The Nevada Supreme Court has held that, "appellants cannot attempt to manufacture
25 good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a
26 "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at
27 506; (quoting, Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), superseded by
28 statute as recognized by, Huebler, 128 Nev. at 197, 275 P.3d at 95, footnote 2). Excuses such

1 as the lack of assistance of counsel when preparing a petition as well as the failure of trial
2 counsel to forward a copy of the file to a petitioner have been found not to constitute good
3 cause. Phelps v. Dir. Nev. Dep't of Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988),
4 superseded by statute as recognized by, Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145
5 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

6 Petitioner makes no good cause argument for why this Court should consider her claim.
7 Failure to address good cause amounts to an admission that she is unable to do so. DCR 13(2);
8 EDCR 3.20(b); Polk v. State, 126 Nev. 180, 186, 233 P.3d 357, 360-61 (2010). Nowhere in
9 her petition does Petitioner address the issue of good cause. She fails to allege any
10 impediments that necessitated bringing a claim outside of appeal. Thus, Petitioner's silence
11 should be read as an admission that no good cause exists.

12 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner
13 had all the facts and law necessary to allege this claim. Thus, Petitioner should have been able
14 to allege it on appeal. Based on Petitioner's failure to properly allege good cause, this Court
15 denies this claim on the grounds that Petitioner cannot demonstrate good cause.

16 Petitioner's failure to address good cause necessitates the dismissal of this claim.
17 However, Petitioner also fails to properly allege prejudice. "A court *must* dismiss a habeas
18 petition if it presents claims that either were or could have been presented in an earlier
19 proceeding, unless the court finds both cause for failing to present the claims earlier or for
20 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-
21 47, 29 P.3d 498, 523 (2001). To demonstrate prejudice to overcome the procedural bars, a
22 defendant must show "not merely that the errors of [the proceeding] created possibility of
23 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state
24 proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952, 960,
25 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584,
26 1596 (1982)). To find good cause there must be a "substantial reason; one that affords a legal
27 excuse." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v.
28 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

1 Petitioner cannot face prejudice, as she alleges nothing more than a bare and naked
2 claim. “Bare” and “naked” allegations are not sufficient to warrant post-conviction relief, nor
3 are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d
4 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by the record
5 as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228,
6 1230 (2002). Petitioner fails to cite law or explain the improperness of the Court’s prior ruling.
7 Thus, even if Petitioner could assert good cause, she is unable to establish prejudice. As such,
8 this claim is denied.

9 **II. PETITIONER DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**
10 **COUNSEL**

11 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
12 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
13 defense.” The United States Supreme Court has long recognized that “the right to counsel is
14 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,
15 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
16 (1993).

17
18 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
19 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test
20 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865
21 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's
22 representation fell below an objective standard of reasonableness, and second, that but for
23 counsel's errors, there is a reasonable probability that the result of the proceedings would have
24 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
25 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
26 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
27 inquiry in the same order or even to address both components of the inquiry if the defendant
28 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

1 The court begins with the presumption of effectiveness and then must determine
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). "Effective counsel
4 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of
5 competence demanded of attorneys in criminal cases.'" Jackson v. Warden, 91 Nev. 430, 432,
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. Ennis
8 v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the "immediate
9 and ultimate responsibility of deciding if and when to object, which witnesses, if any, to call,
10 and what defenses to develop." Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

11 Based on the above law, the role of a court in considering allegations of ineffective
12 assistance of counsel is "not to pass upon the merits of the action not taken but to determine
13 whether, under the particular facts and circumstances of the case, trial counsel failed to render
14 reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
15 (1978). This analysis does not mean that the court should "second guess reasoned choices
16 between trial tactics nor does it mean that defense counsel, to protect himself against
17 allegations of inadequacy, must make every conceivable motion no matter how remote the
18 possibilities are of success." Id. To be effective, the constitution "does not require that counsel
19 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
20 cannot create one and may disserve the interests of his client by attempting a useless charade."
21 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

22 "There are countless ways to provide effective assistance in any given case. Even the
23 best criminal defense attorneys would not defend a particular client in the same way."
24 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after
25 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,
26 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
27 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's
28 challenged conduct on the facts of the particular case, viewed as of the time of counsel's

1 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

2 Even if a defendant can demonstrate that his counsel's representation fell below an
3 objective standard of reasonableness, she must still demonstrate prejudice and show a
4 reasonable probability that, but for counsel’s errors, the result of the trial would have been
5 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
6 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
7 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
8 694, 104 S. Ct. at 2064-65, 2068).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
11 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
12 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
13 be supported with specific factual allegations, which if true, would entitle the petitioner to
14 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
17 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
18 petition to be dismissed.” (emphasis added).

19 There is a strong presumption that appellate counsel's performance was reasonable and
20 fell within “the wide range of reasonable professional assistance.” See United States v.
21 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
22 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
23 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
24 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
25 have had a reasonable probability of success on appeal. Id.

26 The professional diligence and competence required on appeal involves “winnowing
27 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
28 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In

1 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
2 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
3 For judges to second-guess reasonable professional judgments and impose on appointed
4 counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very
5 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

6 **A. Counsel Did Not Provide Ineffective Assistance of Counsel By Meeting with**
7 **Petitioner the Friday Before Trial**

8 Petitioner claims that counsel met with her for less than two hours the Friday prior to
9 trial. Petitioner is not entitled to a particular relationship with counsel. Morris v. Slappy, 461
10 U.S. 1, 13-14, 103 S. Ct 1610, 1616 (1983). There is no requirement that Counsel meet with
11 Petitioner for an unspecified period the day prior to trial. Additionally, Petitioner fails to show
12 how she was prejudiced by this. Petitioner must show how “further communication would
13 have had a reasonable probability of altering the outcome at trial.” Marquez v. State, 455 P.3d,
14 840, 2020 WL 405466 (Nev. 2020) (unpublished). Petitioner simply states that this caused him
15 to not be prepared. Petitioner never specifies in detail a different outcome at trial. Therefore,
16 this Court denies this claim, as Petitioner’s argument is insufficient to demonstrate ineffective
17 assistance of counsel. Browning v. State, 120 Nev. 347, 357, 91 P.3d 39, 47 (2004); Hargrove,
18 100 Nev. at 502, 686 P.2d at 225.

19 **B. Petitioner only Asserts Bare and Naked Claims Regarding Counsel’s Failure**
20 **to Call Witnesses**

21 Petitioner claims Counsel failed to call certain witnesses. However, Counsel maintains
22 the “immediate and ultimate responsibility of deciding if and when to object, which witnesses,
23 if any, to call, and what defenses to develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167.
24 Additionally, Petitioner does not state what witnesses Counsel should have called or what
25 these unknown witnesses would testify to. Without such information, Petitioner cannot
26 demonstrate how these witnesses would affect the outcome of trial. Thus, this Court denies
27 Petitioner’s argument, as it is “bare” and “naked.” Browning v. State, 120 Nev. at 357, 91 P.3d
28 at 47 (2004); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1 **C. Petitioner Fails to Demonstrate How Appellate Counsel Provided Ineffective**
2 **Assistance**

3 Petitioner claims that Appellate Counsel failed to inform her about the status of her
4 appeal from January 14, 2021, until April 22, 2021. Even if this is true, Petitioner fails to
5 explain how she is prejudiced by this. By this point, Petitioner's Appellate Counsel already
6 submitted Appellant's Opening Brief and appeared at oral argument. Additionally, Petitioner
7 still had the ability to file a timely habeas petition during this time. Since Petitioner cannot
8 show prejudice, this Court denies this claim.

9 **III. THERE WAS NO CUMULATIVE ERROR**

10 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
11 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
12 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
13 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
14 Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of errors,
15 none of which would by itself meet the prejudice test.")

16 Nevertheless, even where available a cumulative error finding in the context of a
17 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
18 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
19 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
20 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
21 2007) ("where individual allegations of error are not of constitutional stature or are not errors,
22 there is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
23 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
24 543, 552-53 (5th Cir. 2005)). Because Petitioner has not demonstrated that any claim warrants
25 relief under Strickland, there is nothing to cumulate. Therefore, Petitioner's cumulative error
26 claim should be denied.

27 Notwithstanding a cumulative error analysis not being applicable, Petitioner has failed
28 to demonstrate cumulative error sufficient to warrant reversal. In addressing a claim of
 cumulative error, the relevant factors are: 1) whether the issue of guilt is close; 2) the quantity

1 and character of the error; and 3) the gravity of the crime charged. Mulder v. State, 116 Nev.
2 1, 17, 992 P.2d 845, 854-5 (2000). While Petitioner was charged with serious offenses, she is
3 unable to demonstrate any error. This is because her claims are either barred or meritless.
4 Without any error, there can be no aggregation of errors. Additionally, the issue of guilt is not
5 close given that the Nevada Supreme Court already held there was sufficient proof to justify a
6 guilty verdict. Thus, this Court denies Petitioner's claim as she cannot show cumulative error.

7 **IV. PETITIONER IS NOT ENTITLED TO COUNSEL**

8 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-
9 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566
10 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada
11 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right
12 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to
13 counsel provision as being coextensive with the Sixth Amendment to the United States
14 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)
15 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
16 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at
17 164, 912 P.2d at 258.

18 The Nevada Legislature has, however, given courts the discretion to appoint post-
19 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and
20 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

21 A petition may allege that the Defendant is unable to pay the costs
22 of the proceedings or employ counsel. If the court is satisfied that
23 the allegation of indigency is true and the petition *is not dismissed*
24 *summarily*, the court may appoint counsel at the time the court
25 orders the filing of an answer and a return. In making its
26 determination, the court may consider whether:

- 27 (a) The issues are difficult;
- 28 (b) The Defendant is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.

Under NRS 34.750, it is clear that the court has discretion in determining whether to
appoint counsel. More recently, the Nevada Supreme Court examined whether a district court
appropriately denied a defendant's request for appointment of counsel based upon the factors

1 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In Renteria-
2 Novoa, the petitioner had been serving a prison term of eighty-five (85) years to life. Id. at 75,
3 391 P.3d at 760. After his judgment of conviction was affirmed on direct appeal, the defendant
4 filed a pro se postconviction petition for writ of habeas corpus and requested counsel be
5 appointed. Id. The district court ultimately denied the petitioner's petition and his appointment
6 of counsel request. Id. In reviewing the district court's decision, the Nevada Supreme Court
7 examined the statutory factors listed under NRS 34.750 and concluded that the district court's
8 decision should be reversed and remanded. Id. The Court explained that the petitioner was
9 indigent, his petition could not be summarily dismissed, and he had in fact satisfied the
10 statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor, the Court concluded that
11 because petitioner had represented he had issues with understanding the English language
12 which was corroborated by his use of an interpreter at his trial, that was enough to indicate that
13 the petitioner could not comprehend the proceedings. Id. Moreover, the petitioner had
14 demonstrated that the consequences he faced—a minimum eighty-five (85) year sentence—
15 were severe and his petition may have been the only vehicle for which he could raise his
16 claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of counsel claims
17 may have required additional discovery and investigation beyond the record. Id.

18 Here, Petitioner has not demonstrated that counsel should be appointed. The issues here
19 are not difficult as part of Petitioner's claims were already ruled upon by the Nevada Supreme
20 Court. The remaining claims are meritless. Additionally, Petitioner's claims do not require any
21 additional discovery. Therefore, this Court denies Petitioner's request for counsel.

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ORDER

Based on the foregoing IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and is, hereby denied.

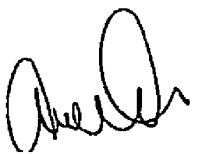
DATED this _____ day of November, 2021. Dated this 10th day of November, 2021



DISTRICT JUDGE

E19 9E9 9341 123B
Joe Hardy
District Court Judge

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

BY  #10539 for

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528

14F04585C/JV/ee/mlb/SVU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Janet Solander, Plaintiff(s)

CASE NO: A-21-840177-W

7 vs.

DEPT. NO. Department 15

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.



1 NEFF

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5 JANET SOLANDER,

6 Petitioner,

Case No: A-21-840177-W

Dept No: XV

7 vs.

8 STATE OF NEVADA,

9 Respondent,

NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

11 PLEASE TAKE NOTICE that on November 10, 2021, the court entered a decision or order in this matter,
12 a true and correct copy of which is attached to this notice.

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

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

18
19 CERTIFICATE OF E-SERVICE / MAILING

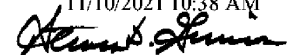
20 I hereby certify that on this 15 day of November 2021, I served a copy of this Notice of Entry on the
21 following:

22 ☒ By e-mail:
Clark County District Attorney's Office
23 Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:
25 Janet Solander # 1200370
4370 Smiley Rd.
26 Las Vegas, NV 89115

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Respondent

DISTRICT COURT
CLARK COUNTY, NEVADA

JANET SOLANDER,
#5870905

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-840177-W

DEPT NO: XV

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

THIS CAUSE having been decided by the Honorable Joe Hardy, District Judge, pursuant to a Minute Order issued on the 28th day of October 2021, the State present via Blue Jeans, 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:

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On July 28, 2014 the State filed an Information that charged Janet Solander (hereinafter
4 “Petitioner”) with CHILD ABUSE, NEGLECT OR ENDANGERMENT WITH
5 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.508(1) - NOC 55222),
6 CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS 200.508(1)
7 - NOC 55226), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
8 AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), ASSAULT WITH USE OF
9 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201) and BATTERY
10 WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400.4 -
11 NOC 50157).

12 Petitioner sought pre-trial habeas relief on November 5, 2014. She alleged a failure to
13 establish probable cause and that sexual assault was a specific-intent crime requiring sexual
14 motivation. The State filed a Return on December 17, 2014. On June 17, 2015, the District
15 Court granted relief in part.

16 Both Petitioner and the State appealed, and, on April 13, 2016, the Nevada Supreme
17 Court reversed. While agreeing that “if the Solanders undertook the catheterization for a bona
18 fide medical purpose, they may avoid criminal liability,” the Court held that jurors should
19 determine whether Solander had such a purpose. The Court explicitly rejected the Petitioner’s
20 argument that sexual assault “includes an element of sexual motivation or gratification.”

21 On January 4, 2018, the State filed their Notice of Expert Witnesses. Petitioner sought
22 to strike on January 28, 2018. The State opposed on February 2, 2018.

23 The State filed a prior-bad-acts motion seeking to admit evidence of Petitioner’s abuse
24 of foster children. Petitioner opposed on January 18, 2018.

25 On January 22, 2018, Petitioner’s co-defendant filed a motion to suppress victim
26 interviews. Petitioner joined. The State responded on February 1, 2018.

27 On January 31, 2018, the District Court began a two-day hearing on the prior-bad-acts
28 motion.

1 A twenty-day jury trial began on February 5, 2018. On February 6, 2018, the State filed
2 an Amended Information. The jury found Petitioner guilty of each count.

3 Petitioner was sentenced on June 5, 2018. Her sentence included eleven counts of thirty-
4 five years to life for the sexual-assault counts. The other sentences ran consecutive to each
5 other. The Judgment of Conviction was filed on June 22, 2018.

6 A Notice of Appeal was filed on June 21, 2018. On October 27, 2020, the Supreme
7 Court of Nevada affirmed the Judgment of Conviction. Remittitur issued October 26, 2020.

8 On August 26, 2021, Petitioner filed the instant Petition. On August 30, 2021, the Court
9 ordered the State to respond.

10 **FACTUAL BACKGROUND**

11 This case involves the systemic abuse of three young girls over a period of several
12 years. The oldest, A.S.(2001), was born on October 21, 2001. The middle sister, A.S.(2003),
13 was born on January 23, 2003. The youngest, A.S.(2004), was born on July 25, 2004.

14 The sisters were removed from their biological families. After a short time with another
15 family, they were placed with Debbie McClain. They lived with McClain for a year and a half.
16 A.S.(2001) and A.S.(2003) were potty trained and did not have accidents during their time
17 with McClain. McClain fed the sisters regular food, but A.S.(2004) was a picky eater. During
18 their time with McClain, the girls did not have “any scars either to the flanks of their body,
19 their buttocks, [or] their upper thighs.”

20 The girls were fostered to the Solanders. The Solanders ultimately adopted them. They
21 lived in two different houses during their time with the Solanders. The first home, when they
22 were foster children, was on “Jubilee.” The second was on “Wakashan.”

23 In the Jubilee house, Petitioner implemented rules about using the bathroom. They had
24 to ask before using the toilet, and Petitioner would set a timer on either her phone or a physical
25 timer for “however much time she felt like” the girls needed to “hold it.” They could not use
26 the toilet until the timer was up.

27 The girls were fed regular food at Jubilee for a short period of time. Eventually,
28 Petitioner changed their diet, alleging that A.S.(2001) had Crohn’s disease. During the time

1 that the sisters were foster children, Petitioner did not physically punish them. This changed
2 after adoption. Petitioner would make them sleep on boards or towels with a cold fan blowing
3 on them in only their underwear. The other foster children had their own beds. Danielle Hinton
4 remembered her mother threatening the sisters with "the fan" if they acted up, even in the
5 wintertime.

6 After the adoption, Petitioner's toileting rules remained rigid. The girls still had to ask,
7 and only after they had asked, Petitioner would start the timer. Petitioner would get upset with
8 the girls for not asking earlier. They found it confusing that they had to first ask, and they
9 sometimes got in trouble when they had to go too much when the timer finally rang. At times,
10 they would have to wait so long either after Petitioner started the timer or during the middle
11 of the night that they would wet themselves. Petitioner counted the squares of toilet paper the
12 girls could use. Because they were so limited, their feces would sometimes leave marks on
13 their underwear. The Solanders would check the sisters' underwear for these marks. These
14 rules were corroborated by Jan Finnegan and Hinton. Petitioner would make them sit on
15 buckets and the youngest sit on a tiny toilet all day with their underwear pulled slightly down
16 rather than letting them use the toilet as needed. Hinton saw the girls use their buckets as
17 toilets.

18 Even during the night, the girls had to ask before they could go to the bathroom.
19 Eventually, Petitioner revoked nocturnal toileting. A camera faced the upstairs bathroom.
20 Having been forbidden from using the toilet at night, the girls would soil themselves. Dwight
21 Petitioner enforced this rule by placing gates and alarms on a bathroom door. He was often
22 out of town for work, meaning that Petitioner was the main instigator of punishments.

23 The girls developed a fear of toileting. This led to multiple accidents daily. When the
24 girls were left in the care of others, the toileting problems would cease.

25 Petitioner kicked the girls up and down the stairs. When they were showering, she
26 would pour ice on them. Hinton saw her mother get the ice and heard the girls scream.

27 If they had an accident, the Solanders would beat them with paint sticks until they would
28 bleed and scar. Hinton witnessed these beatings. I.S.(2008), one of the foster children, testified

1 that she saw this "every day" and that Dwight make her and her sister "be the audience" and
2 laugh at the sisters as they were being beaten. Petitioner would force the girls to put their soiled
3 underwear into their mouths. Once, after A.S.(2004) had an accident, Petitioner took the paint
4 stick and inserted it into A.S.(2004)'s vagina. On another occasion, Petitioner burned
5 A.S.(2004) while she was washing her hands by turning the temperature up and holding her
6 hands under the water and then splashing her with hot water, badly burning her skin. State's
7 Exhibit 192. Petitioner forced A.S.(2004)'s head into a toilet filled with excrement and, on
8 more than one occasion, made her stand naked in a garbage bag as she soiled herself. When
9 A.S.(2001) had an accident, Petitioner made her lick her own urine off the floor. Another time,
10 Petitioner slammed A.S.(2001)'s head into a counter repeatedly after she had an accident.
11 A.S.(2006), a foster child, witnessed Dwight spanking the sisters with their pants down with a
12 "ruler that was pretty thick." I.S.(2008) remembered seeing each of the sisters being hit with
13 paint sticks seeing scabs and burns on their bodies from Petitioner burning them with water.

14 The Solanders humiliated the girls by making them crawl on the floor in cloth diapers
15 saying that they were babies while the foster children and Danielle Hinton watched. As they
16 crawled doing their "I'm-a-baby chant," the Solanders would make them wear their soiled
17 underwear on their heads or carry them in their mouths.

18 Dwight Solander purchased six catheters on December 8, 2012, and three days later, on
19 December 11, 2012, Petitioner sent Dwight a picture of a catheter filled with urine and a
20 subject line which read "300 cc's." State's Exhibits 204,243. Petitioner also regularly punished
21 the sisters by inserting catheters into their urethras without their consent and by threatening to
22 cut their genitalia with a razor blade. She did this to A.S.(2003) once, to A.S.(2001) more than
23 once, and to A.S.(2004) between 7-8 times. Petitioner had to hold A.S.(2004) down as she
24 inserted the catheter because she would fight. Hinton heard the Solanders threaten the girls
25 with catheters and saw a catheter in her house. She told police that the Solanders used catheters
26 on the girls, but that she couldn't personally watch.

27 Petitioner limited the sisters' meals as punishment for accidents. When they did eat,
28 their meals were timed and often blended. A.S.(2001) would "usually have baby formula and

1 milk” which was blended occasionally with bread. Other times, she would have oatmeal mixed
2 with fish, or quinoa. Dinner was collard greens, beans, horseradish, and fish along with
3 “several other kinds of meat” which Petitioner would blend together.

4 To eat, A.S.(2001) would have to stand by the sink. Jan Finnegan testified that the girls
5 were required to eat breakfast standing up while the other children in the home could eat at the
6 table. As A.S.(2001) ate, Petitioner would tell A.S.(2001) that she had ground up a mouse or
7 a rat into her meal. She would also tell A.S.(2001) that the fish had been alive. For liquids,
8 A.S.(2001) would get water with medicine or after bathroom breaks. Meals were served
9 without a drink. She was so thirsty that she would drink water from the shower or brushing
10 her teeth. Petitioner saw A.S.(2001) drink shower water and slapped her, cutting and bruising
11 her lip. Finnegan testified that the girls “weren’t allowed” to be given water at dinner, in the
12 middle of the day, or “[h]ardly ever.”

13 At first, A.S.(2001) would get three meals each day. Then two, breakfast and dinner,
14 then one, then, at times, none. The Solanders forbade Finnegan from feeding the sisters lunch
15 even though the other children in the home could eat. The meals caused A.S.(2001) to use the
16 toilet more. Hungry, A.S.(2001) would sneak into the pantry to get food. Petitioner beat her
17 with a stick.

18 Petitioner also severely limited A.S.(2003)’s food intake by timing her meals and letting
19 her go hungry. In response, she would take food in violation of Petitioner’s rules. At times,
20 she would, while sitting on her bucket, watch Petitioner eat a hearty breakfast and hungrily
21 wait to be fed. A.S.(2004) was also left to go hungry.

22 *Foster Sibling Corroboration*

23 I.S.(2008) and A.S.(2006) lived with the Solanders as foster children. They
24 corroborated the sisters’ testimony about Solander’s strict toileting rules. I.S.(2008) testified
25 that Petitioner would watch the sisters as they used the restroom.

26 Petitioner forbade A.S.(2006) from eating dairy even though she did not have any
27 stomach problems. After she was removed from the Petitioner house, she did not have any
28 toileting problems or lactose intolerance.

1 A.S.(2006) further corroborated the sisters' testimony regarding blended food and the
2 eating conditions. Further, she remembered Petitioner talking about using catheters on one of
3 the sisters and orange Home Depot buckets in the kitchen.

4 *Jan Finnegan*

5 In January 2013, Finnegan responded to Petitioner's nanny ad. Finnegan observed two
6 cameras—one in the kitchen and one on the second floor "looking down towards the entrance
7 of the bathroom."

8 Finnegan corroborated the sisters' testimony about Petitioner's strict bathroom rules
9 and that the rules did not apply to the other children. When she tried to do laundry, Dwight
10 told her to refrain so that he could see the sister's underwear. Despite the rules, none of the
11 children had any toileting accidents during the entire three weeks Finnegan was there. Further,
12 the sisters did not have any severe tantrums or disturbing emotional behavior.

13 Finnegan corroborated the sisters' testimony that Petitioner would strictly control their
14 diets while allowing the foster children to eat normal food. The Solanders forbade Finnegan
15 from giving the girls food outside of breakfast and dinner, they were required to eat breakfast
16 standing, their food had to be blended, and they could not be given water. To justify this,
17 Dwight cited vague "intestinal problems." Finnegan would sneak them solid, unblended food
18 every day without any resulting intestinal problems.

19 Finnegan testified that the sisters were not disobedient and that they were well behaved.

20 *Investigation*

21 On February 26, 2014, Shining Star Therapeutic Services sent a report to CPS about
22 two of Petitioner's foster children. On February 27, 2014, Yvette Gonzales, a senior family
23 services specialist with CPS, visited the school of one of the children. She decided to remove
24 the children.

25 Gonzales reported to the Solander house and asked to see the remaining foster children.
26 She asked Petitioner where her adoptive daughters were, and Petitioner said they were in
27 Nebraska but refused to provide contact information. Gonzales said she was "going to file a
28 missing person's report" if Petitioner did not provide her with more information. Petitioner

1 asked Gonzales to leave, and CPS took the foster children.

2 On February 28, 2014, Gonzales contacted the Las Vegas Metropolitan Police
3 Department Missing Persons Detail. A detective contacted Dwight, who said the girls were in
4 Marvelous Grace Academy in Pace, Florida. The director of the academy, Steven Blankenship,
5 confirmed that the girls were there.

6 Gonzales decided to have someone speak with the sisters. Jackie Henry from the
7 Department of Family Services contacted the girls. Henry put them in protective custody, and
8 the Solanders' rights over them were removed. CPS opened an investigation. The police
9 department was asked to determine if the Solanders had committed any crimes.

10 Gonzales interviewed Dwight and informed him that a protective custody hearing
11 would be held. On March 5, 2014, the hearing was conducted. The girls were returned to
12 Nevada and expressed fear over returning to the Solander's home.

13 On March 13, 2014, the girls were examined by Dr. Sandra Cetl. She conducted a sexual
14 assault assessment of each child. She found nothing significant, but she testified that the
15 administration of a catheter would not result in scarring or tearing. She did find marks on
16 A.S.(2001) during the physical evaluation that caused her concern. She found scars on the
17 buttocks, "in between the thighs right almost to the genital area, and [on] the lower back area."
18 The marks near the buttocks were larger and "had some shape to them" and were in an area
19 that people do not typically injure. Her left buttock had a linear scar. This was consistent with
20 being hit with a paint stick. The mark was caused by blunt force trauma. The physical
21 examination of A.S.(2003) revealed marks on her buttocks, legs, and back which were
22 consistent with blunt force trauma. "[T]he top of her right shoulder" had "substantial scar
23 tissue.". Cetl was "concerned that it may have been from a burn, maybe a scald burn." Her
24 lower back had a linear scar. A.S.(2004) had scars on her buttocks and back which were
25 consistent with blunt force trauma. She had "a light lightening from the skin from ... scarring
26 on her right ear." A scar ran down her shoulder that looked like a "hot liquid type of a burn."
27 The doctor noted concerns about the growth of the girls.

28 //

1 *McClain*

2 In March 2014, the girls were returned to live with McClain. They had changed
3 tremendously, and McClain believed that she “didn’t get the same kids back.” A.S.(2001) was
4 withdrawn and depressed. A.S.(2003) was argumentative, “real angry,” and quick to blame
5 others. A.S.(2004) was confused about everything. By the time the girls were returned, they
6 were not having toileting accidents and properly digesting food. They had marks and scars on
7 their bodies which “were not there previously.”

8 *Medical*

9 Cetl testified that the genital area included the labia majora, the vagina, and the urethral
10 opening. The labia majora generally completely enclose the inner parts of female genitalia,
11 and they must be spread to get to the inner areas. 19AA4623. Dr. Elizabeth Mileti testified that
12 she would never recommend that a parent administer a catheter to check their child’s bladder,
13 and that she did not recommend catheterization of A.S.(2003). Dr. Alphonsa Stephen testified
14 that she never recommended that Petitioner administer a catheter to A.S.(2004).

15 **ANALYSIS**

16 **I. PETITIONER’S ARGUMENTS IN GROUND TWO ARE BARRED**

17 **A. The Law of The Case Bars Petitioner’s Sufficiency of The Evidence Claims**

18 The arguments in Ground two (2) of the petition are procedurally barred by the law of
19 the case given that the Nevada Supreme Court ruled on them. The law of a first appeal is law
20 of the case on all subsequent appeals in which the facts are substantially the same.” Hall v.
21 State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343,
22 455 P.2d 34, 38 (1969)). “The doctrine of the law of the case cannot be avoided by a more
23 detailed and precisely focused argument subsequently made after reflection upon the previous
24 proceedings.” Id. at 316, 535 P.2d at 799. Under the law of the case doctrine, issues previously
25 decided on direct appeal may not be reargued. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d
26 519, 532 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275
27 (1999)). Furthermore, this Court cannot overrule the Nevada Supreme Court. NEV. CONST.
28 Art. VI § 6.

1 Petitioner argues that the State failed to prove beyond a reasonable doubt that she was
2 guilty. Petitioner already argued this claim on direct appeal. The Nevada Supreme Court
3 concluded that there was sufficient evidence:

4 Solander challenges her convictions of sexual assault of a minor
5 under 14 years of age and batter with intent to commit sexual
6 assault.

7 ...
8 Considering all the evidence, we conclude a rational trier of fact
9 could find the elements of sexual assault of a minor under 14 years
10 of age and batter with intent to commit sexual assault beyond a
11 reasonable doubt for each of Solander's convictions.

12 ...
13 Solander next challenges her convictions for child abuse with
14 substantial bodily harm by means of spanking the victims with a
15 paint stick

16 ...
17 Based on this evidence a rational trier of fact could have found
18 each essential element of the crime beyond a reasonable doubt.
19 Lastly, Solander contends that the State failed to prove count 11
20 beyond a reasonable doubt because A.S. (2001) recanted the
21 allegation.

22 ...
23 Thus, a rational trier of fact could have found each essential
24 element of the crime beyond a reasonable doubt

25 Solander v. State, No. 76228, 2020 WL 3603882, at *2-6 (July 1, 2020). The law of the case
26 bars Petitioner from relitigating these claims. Thus, this Court finds that the law of the case
27 bars Ground two (2) of the Petition.

28 **B. Petitioner's Claim Regarding the CPS Records Should Have Been Raised on
Direct Appeal**

 At the end of Ground two, Petitioner asserts that the court incorrectly ruled that certain
evidence was not relevant. This claim should have been raised on direct appeal. NRS
34.724(2)(a); NRS 34.810(1)(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059
(1994), disapproved on other grounds, Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).
Her failure to do so bars this claim.

1 Petitioner's failure to prove good cause or prejudice requires the dismissal of this claim.
2 To overcome this bar, a petitioner must demonstrate: (1) good cause for delay in filing her
3 petition or for bringing new claims or repeating claims in a successive petition; and (2) undue
4 or actual prejudice. NRS 34.726(1); NRS 34.800(1); NRS 34.810(3). To establish prejudice
5 "a petitioner must show that errors in the proceedings underlying the judgment worked to the
6 petitioner's actual and substantial disadvantage." State v. Huebler, 128 Nev. 192, 197, 275
7 P.3d 91, 94-95 (2012), cert. denied, 568 U.S. 1147, 133 S.Ct. 988 (2013).

8 "To establish good cause, petitioners must show that an impediment external to the
9 defense prevented their compliance with the applicable procedural rule. A qualifying
10 impediment might be shown where the factual or legal basis for a claim was not reasonably
11 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003),
12 rehearing denied, 120 Nev. 307, 91 P.3d 35 cert. denied, 543 U.S. 947, 125 S.Ct. 358 (2004);
13 see also, Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003) ("In order to
14 demonstrate good cause, a petitioner must show that an impediment external to the defense
15 prevented him or her from complying with the state procedural default rules"); Pellegrini, 117
16 Nev. at 887, 34 P.3d at 537 (neither ineffective assistance of counsel, nor a physician's
17 declaration in support of a habeas petition were sufficient "good cause" to overcome a
18 procedural default, whereas a finding by Supreme Court that a defendant was suffering from
19 Multiple Personality Disorder was). An external impediment could be "that the factual or legal
20 basis for a claim was not reasonably available to counsel, or that 'some interference by
21 officials' made compliance impracticable." Id. (quoting Murray v. Carrier, 477 U.S. 478, 488,
22 106 S.Ct. 2639, 2645 (1986)); see also, Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing
23 Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

24 The Nevada Supreme Court has held that, "appellants cannot attempt to manufacture
25 good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there must be a
26 "substantial reason; one that affords a legal excuse." Hathaway, 119 Nev. at 251, 71 P.3d at
27 506; (quoting, Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989), superseded by
28 statute as recognized by, Huebler, 128 Nev. at 197, 275 P.3d at 95, footnote 2). Excuses such

1 as the lack of assistance of counsel when preparing a petition as well as the failure of trial
2 counsel to forward a copy of the file to a petitioner have been found not to constitute good
3 cause. Phelps v. Dir. Nev. Dep't of Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988),
4 superseded by statute as recognized by, Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145
5 (2004); Hood v. State, 111 Nev. 335, 890 P.2d 797 (1995).

6 Petitioner makes no good cause argument for why this Court should consider her claim.
7 Failure to address good cause amounts to an admission that she is unable to do so. DCR 13(2);
8 EDCR 3.20(b); Polk v. State, 126 Nev. 180, 186, 233 P.3d 357, 360-61 (2010). Nowhere in
9 her petition does Petitioner address the issue of good cause. She fails to allege any
10 impediments that necessitated bringing a claim outside of appeal. Thus, Petitioner's silence
11 should be read as an admission that no good cause exists.

12 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner
13 had all the facts and law necessary to allege this claim. Thus, Petitioner should have been able
14 to allege it on appeal. Based on Petitioner's failure to properly allege good cause, this Court
15 denies this claim on the grounds that Petitioner cannot demonstrate good cause.

16 Petitioner's failure to address good cause necessitates the dismissal of this claim.
17 However, Petitioner also fails to properly allege prejudice. "A court *must* dismiss a habeas
18 petition if it presents claims that either were or could have been presented in an earlier
19 proceeding, unless the court finds both cause for failing to present the claims earlier or for
20 raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-
21 47, 29 P.3d 498, 523 (2001). To demonstrate prejudice to overcome the procedural bars, a
22 defendant must show "not merely that the errors of [the proceeding] created possibility of
23 prejudice, but that they worked to his actual and substantial disadvantage, in affecting the state
24 proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952, 960,
25 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584,
26 1596 (1982)). To find good cause there must be a "substantial reason; one that affords a legal
27 excuse." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v.
28 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

1 Petitioner cannot face prejudice, as she alleges nothing more than a bare and naked
2 claim. “Bare” and “naked” allegations are not sufficient to warrant post-conviction relief, nor
3 are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d
4 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by the record
5 as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228,
6 1230 (2002). Petitioner fails to cite law or explain the improperness of the Court’s prior ruling.
7 Thus, even if Petitioner could assert good cause, she is unable to establish prejudice. As such,
8 this claim is denied.

9 **II. PETITIONER DID NOT RECEIVE INEFFECTIVE ASSISTANCE OF**
10 **COUNSEL**

11 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
12 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
13 defense.” The United States Supreme Court has long recognized that “the right to counsel is
14 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,
15 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
16 (1993).

17
18 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
19 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test
20 of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865
21 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's
22 representation fell below an objective standard of reasonableness, and second, that but for
23 counsel's errors, there is a reasonable probability that the result of the proceedings would have
24 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
25 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
26 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
27 inquiry in the same order or even to address both components of the inquiry if the defendant
28 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

1 The court begins with the presumption of effectiveness and then must determine
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). "Effective counsel
4 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of
5 competence demanded of attorneys in criminal cases.'" Jackson v. Warden, 91 Nev. 430, 432,
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. Ennis
8 v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the "immediate
9 and ultimate responsibility of deciding if and when to object, which witnesses, if any, to call,
10 and what defenses to develop." Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

11 Based on the above law, the role of a court in considering allegations of ineffective
12 assistance of counsel is "not to pass upon the merits of the action not taken but to determine
13 whether, under the particular facts and circumstances of the case, trial counsel failed to render
14 reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
15 (1978). This analysis does not mean that the court should "second guess reasoned choices
16 between trial tactics nor does it mean that defense counsel, to protect himself against
17 allegations of inadequacy, must make every conceivable motion no matter how remote the
18 possibilities are of success." Id. To be effective, the constitution "does not require that counsel
19 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
20 cannot create one and may disserve the interests of his client by attempting a useless charade."
21 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

22 "There are countless ways to provide effective assistance in any given case. Even the
23 best criminal defense attorneys would not defend a particular client in the same way."
24 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after
25 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,
26 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
27 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's
28 challenged conduct on the facts of the particular case, viewed as of the time of counsel's

1 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

2 Even if a defendant can demonstrate that his counsel's representation fell below an
3 objective standard of reasonableness, she must still demonstrate prejudice and show a
4 reasonable probability that, but for counsel’s errors, the result of the trial would have been
5 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
6 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
7 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
8 694, 104 S. Ct. at 2064-65, 2068).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
11 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
12 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
13 be supported with specific factual allegations, which if true, would entitle the petitioner to
14 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
17 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
18 petition to be dismissed.” (emphasis added).

19 There is a strong presumption that appellate counsel's performance was reasonable and
20 fell within “the wide range of reasonable professional assistance.” See United States v.
21 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
22 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
23 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
24 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
25 have had a reasonable probability of success on appeal. Id.

26 The professional diligence and competence required on appeal involves “winnowing
27 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
28 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In

1 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
2 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
3 For judges to second-guess reasonable professional judgments and impose on appointed
4 counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very
5 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

6 **A. Counsel Did Not Provide Ineffective Assistance of Counsel By Meeting with**
7 **Petitioner the Friday Before Trial**

8 Petitioner claims that counsel met with her for less than two hours the Friday prior to
9 trial. Petitioner is not entitled to a particular relationship with counsel. Morris v. Slappy, 461
10 U.S. 1, 13-14, 103 S. Ct 1610, 1616 (1983). There is no requirement that Counsel meet with
11 Petitioner for an unspecified period the day prior to trial. Additionally, Petitioner fails to show
12 how she was prejudiced by this. Petitioner must show how “further communication would
13 have had a reasonable probability of altering the outcome at trial.” Marquez v. State, 455 P.3d,
14 840, 2020 WL 405466 (Nev. 2020) (unpublished). Petitioner simply states that this caused him
15 to not be prepared. Petitioner never specifies in detail a different outcome at trial. Therefore,
16 this Court denies this claim, as Petitioner’s argument is insufficient to demonstrate ineffective
17 assistance of counsel. Browning v. State, 120 Nev. 347, 357, 91 P.3d 39, 47 (2004); Hargrove,
18 100 Nev. at 502, 686 P.2d at 225.

19 **B. Petitioner only Asserts Bare and Naked Claims Regarding Counsel’s Failure**
20 **to Call Witnesses**

21 Petitioner claims Counsel failed to call certain witnesses. However, Counsel maintains
22 the “immediate and ultimate responsibility of deciding if and when to object, which witnesses,
23 if any, to call, and what defenses to develop.” Rhyne, 118 Nev. at 8, 38 P.3d at 167.
24 Additionally, Petitioner does not state what witnesses Counsel should have called or what
25 these unknown witnesses would testify to. Without such information, Petitioner cannot
26 demonstrate how these witnesses would affect the outcome of trial. Thus, this Court denies
27 Petitioner’s argument, as it is “bare” and “naked.” Browning v. State, 120 Nev. at 357, 91 P.3d
28 at 47 (2004); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1 **C. Petitioner Fails to Demonstrate How Appellate Counsel Provided Ineffective**
2 **Assistance**

3 Petitioner claims that Appellate Counsel failed to inform her about the status of her
4 appeal from January 14, 2021, until April 22, 2021. Even if this is true, Petitioner fails to
5 explain how she is prejudiced by this. By this point, Petitioner's Appellate Counsel already
6 submitted Appellant's Opening Brief and appeared at oral argument. Additionally, Petitioner
7 still had the ability to file a timely habeas petition during this time. Since Petitioner cannot
8 show prejudice, this Court denies this claim.

9 **III. THERE WAS NO CUMULATIVE ERROR**

10 The Nevada Supreme Court has not endorsed application of its direct appeal cumulative
11 error standard to the post-conviction Strickland context. McConnell v. State, 125 Nev. 243,
12 259, 212 P.3d 307, 318 (2009). Nor should cumulative error apply on post-conviction review.
13 Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S.
14 Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of errors,
15 none of which would by itself meet the prejudice test.")

16 Nevertheless, even where available a cumulative error finding in the context of a
17 Strickland claim is extraordinarily rare and requires an extensive aggregation of errors. See,
18 e.g., Harris By and through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995). In fact,
19 logic dictates that there can be no cumulative error where the defendant fails to demonstrate
20 any single violation of Strickland. See Turner v. Quarterman, 481 F.3d 292, 301 (5th Cir.
21 2007) ("where individual allegations of error are not of constitutional stature or are not errors,
22 there is 'nothing to cumulate.'") (quoting Yohey v. Collins, 985 F.2d 222, 229 (5th Cir. 1993));
23 Hughes v. Epps, 694 F.Supp.2d 533, 563 (N.D. Miss. 2010) (citing Leal v. Dretke, 428 F.3d
24 543, 552-53 (5th Cir. 2005)). Because Petitioner has not demonstrated that any claim warrants
25 relief under Strickland, there is nothing to cumulate. Therefore, Petitioner's cumulative error
26 claim should be denied.

27 Notwithstanding a cumulative error analysis not being applicable, Petitioner has failed
28 to demonstrate cumulative error sufficient to warrant reversal. In addressing a claim of
 cumulative error, the relevant factors are: 1) whether the issue of guilt is close; 2) the quantity

1 and character of the error; and 3) the gravity of the crime charged. Mulder v. State, 116 Nev.
2 1, 17, 992 P.2d 845, 854-5 (2000). While Petitioner was charged with serious offenses, she is
3 unable to demonstrate any error. This is because her claims are either barred or meritless.
4 Without any error, there can be no aggregation of errors. Additionally, the issue of guilt is not
5 close given that the Nevada Supreme Court already held there was sufficient proof to justify a
6 guilty verdict. Thus, this Court denies Petitioner's claim as she cannot show cumulative error.

7 **IV. PETITIONER IS NOT ENTITLED TO COUNSEL**

8 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-
9 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566
10 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada
11 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right
12 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to
13 counsel provision as being coextensive with the Sixth Amendment to the United States
14 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)
15 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
16 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at
17 164, 912 P.2d at 258.

18 The Nevada Legislature has, however, given courts the discretion to appoint post-
19 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and
20 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

21 A petition may allege that the Defendant is unable to pay the costs
22 of the proceedings or employ counsel. If the court is satisfied that
23 the allegation of indigency is true and the petition *is not dismissed*
24 *summarily*, the court may appoint counsel at the time the court
25 orders the filing of an answer and a return. In making its
26 determination, the court may consider whether:

- 27 (a) The issues are difficult;
- 28 (b) The Defendant is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.

Under NRS 34.750, it is clear that the court has discretion in determining whether to
appoint counsel. More recently, the Nevada Supreme Court examined whether a district court
appropriately denied a defendant's request for appointment of counsel based upon the factors

1 listed in NRS 34.750. Renteria-Novoa v. State, 133 Nev. 75, 391 P.3d 760 (2017). In Renteria-
2 Novoa, the petitioner had been serving a prison term of eighty-five (85) years to life. Id. at 75,
3 391 P.3d at 760. After his judgment of conviction was affirmed on direct appeal, the defendant
4 filed a pro se postconviction petition for writ of habeas corpus and requested counsel be
5 appointed. Id. The district court ultimately denied the petitioner's petition and his appointment
6 of counsel request. Id. In reviewing the district court's decision, the Nevada Supreme Court
7 examined the statutory factors listed under NRS 34.750 and concluded that the district court's
8 decision should be reversed and remanded. Id. The Court explained that the petitioner was
9 indigent, his petition could not be summarily dismissed, and he had in fact satisfied the
10 statutory factors. Id. at 76, 391 P.3d 760-61. As for the first factor, the Court concluded that
11 because petitioner had represented he had issues with understanding the English language
12 which was corroborated by his use of an interpreter at his trial, that was enough to indicate that
13 the petitioner could not comprehend the proceedings. Id. Moreover, the petitioner had
14 demonstrated that the consequences he faced—a minimum eighty-five (85) year sentence—
15 were severe and his petition may have been the only vehicle for which he could raise his
16 claims. Id. at 76-77, 391 P.3d at 761-62. Finally, his ineffective assistance of counsel claims
17 may have required additional discovery and investigation beyond the record. Id.

18 Here, Petitioner has not demonstrated that counsel should be appointed. The issues here
19 are not difficult as part of Petitioner's claims were already ruled upon by the Nevada Supreme
20 Court. The remaining claims are meritless. Additionally, Petitioner's claims do not require any
21 additional discovery. Therefore, this Court denies Petitioner's request for counsel.

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ORDER

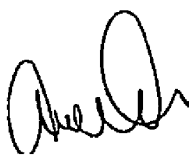
Based on the foregoing IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus shall be, and is, hereby denied.

DATED this _____ day of November, 2021. Dated this 10th day of November, 2021


DISTRICT JUDGE

E19 9E9 9341 123B
Joe Hardy
District Court Judge

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

BY  #10539 for
JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney
Nevada Bar #006528

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Janet Solander, Plaintiff(s)

CASE NO: A-21-840177-W

7 vs.

DEPT. NO. Department 15

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

November 19, 2021

Attorney: Caityln McAmis
550 E Charleston Blvd. #A
Las Vegas NV 89104

Case Number: A-21-840177-W
C-14-299737-3
Department: Department 15

Plaintiff: Janet Solander

Attached are pleadings received by the Office of the District Court Clerk, which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: Motion to Produce Inmate for Hearing

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 27

Deputy Clerk of the Court

1 Janet Solander # 1200370
2 Florence McClure Women's Correctional Center
3 4370 Smiley Road
4 Las Vegas, NV 89115

5 In the 8th Judicial District Court of the State of Nevada
6 In and for the County of Clark

7 In the matter of:

8 Janet Solander)
9 Plaintiff/Petitioner)
10 V.)
11 State of Nevada)
12 Defendant/Respondent)

Case No: A-21-840177
Dept. No: 15

13 Motion to Produce Imate for Hearing

14 Now comes petitioner a Pro-se litigant in the above-
15 captioned matter and submits to this Honorable Court
16 a request to allow participation for Hearing by
17 telephone or video.

18 Dated this 14th day of October, 2021

19 Respectfully submitted
20 Janet Solander
21 Janet Solander

22 RECEIVED

23 OCT 25 2021

24 CLERK OF THE COURT

25 Page Number 1

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DECLARATION UNDER PENALTY OF PERJURY
I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.
I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 14th day of October, 2021
Janet Solander 1200376
Signature Nevada Department of Corrections #

¹ NRS 171.102
² NRS 208.165
³ 28 U.S.C.
§1746. Unsworn declarations under penalty of perjury
18 U.S.C.
§ 1621. Perjury generally

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF Clark

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: A-21-840177-W

On this 14th day of October, 2021, I mailed a copy of the

Following document(s):

1. Motion to Produce Inmate for Hearing
2. _____
3. _____
4. _____
5. _____

By United States First Class Mail, to the following addresses:

1. Clark of Courts
200 Lewis Ave., 3rd Floor
Las Vegas, NV
89155-1160
2. _____
3. _____
4. _____

Dated this 14th day of October, 2021.

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Printed Name

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DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 14th day of October, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally

Janet Solander
FMWCC #1200370
4370 Smiley Rd
Las Vegas, NV 89115

Confidential
Legal Mail

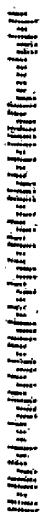
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Clark of Court
200 Louis Ave. 3rd Floor
Las Vegas, NV 89115-1146

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FIRST-CLASS MAIL

10/21/2021

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ZIP 89101

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Steven D. Grierson

Janet Solander #1200370
FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER
4370 SMILEY ROAD
LAS VEGAS, NV 89115

In the 8th Judicial District Court of the State of Nevada
In and for the County of Clark

Janet Solander)
Appellant/Plaintiff/Petitioner

v.

Case No. A-21-840177-W

State of Nevada)
Appellee/Respondent/Defendant

NOTICE OF APPEAL

Notice is hereby given that Janet Solander, Petitioner above named in
the above captioned case, hereby appeals to the **SUPREME COURT FOR THE STATE OF NEVADA**
from the final judgment for HABEAS CORPUS POST CONVICTION
entered on the 23rd day of November, 2021.

Dated this 23rd day of November, 2021

Respectfully submitted,

Janet Solander, Petitioner
Signature/ Pro Se Litigant

Janet Solander
Print Name

CLERK OF THE COURT

NOV 29 2021

RECEIVED

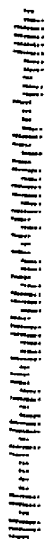
Janet Solander
FNUCE 1300370
4370 Simlady Rd.
Las Vegas, NV 89115

CONFIDENTIAL LEGAL MAIL

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LAS VEGAS NV 890
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CLERK OF COURT
8th JUDICIAL DISTRICT
200 LEWIS AVE
LAS VEGAS, NV 89105

89101-630000



Janet Solander # 1200370
FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER
4370 SMILEY ROAD
LAS VEGAS, NV 89115

Steven D. Grierson

In the 8th Judicial District Court of the State of Nevada
In and for the County of Clark

In the matter of:

Janet Solander)
Appellant/Plaintiff/Petitioner

v.

Case No. A-21-840177-W

State of Nevada)
Appellee/Respondent/Defendant

DESIGNATION OF RECORD ON APPEAL

COMES NOW Appellant, Janet Solander, a pro se litigant and hereby designates the entire record of the above-captioned case to include all pleadings, transcripts, papers, and documents for the **NOTICE OF APPEAL IN THE SUPREME COURT FOR THE STATE OF NEVADA.**

Appellant also requests that the District Court include in this Designation of Record, as applicable, the following documents:

1. ORDER
2. NOTICE OF ENTRY OF ORDER
3. FINDINGS OF FACT AND LAW

Dated this 23rd day of November, 2021

Respectfully submitted,

Janet Solander, Appellant
Pro Se Litigant

Janet Solander
Print Name

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF Clark

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: A-21-840177-W

On this 23rd day of November, 2021, I mailed a copy of the

Following document(s):

1. NOTICE OF APPEAL
2. DESIGNATION OF RECORD ON APPEAL
3. _____
4. _____
5. _____

By United States First Class Mail, to the following addresses:

1. Clerk of Court
8th Judicial District
200 Lewis Ave
Las Vegas, NV 89155
2. Attorney General - Nevada
555 E. Washington Ave. St. 3900
Las Vegas, NV
89101
3. Janet Solander
FMU 22 #1200370
4370 Smiley Rd.
Las Vegas, NV 89115

Dated this 23rd day of November, 2021.

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Printed Name

1 This document does not contain the personal information of any person as
2 defined by NRS 603A.40.

3
4 DECLARATION UNDER PENALTY OF PERJURY

5 I, the undersigned, understand that a false statement or answer to any question in this declaration will
6 subject me to penalties of perjury.

7 I declare, under the penalty of perjury under the laws of the United States of America,
8 that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed
9 within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

10 Dated this 23rd day of November, 2021

11 Janet Solander
12 Signature

13 1200370
14 Nevada Department of Corrections ID #

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26 ¹ NRS 171.102

27 ² NRS 208.165

28 ³ 28 U.S.C.

¹ 1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally



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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 JANET SOLANDER,

11 Plaintiff(s),

12 vs.

13 STATE OF NEVADA,

14 Defendant(s),
15

Case No: A-21-840177-W

Dept No: XV

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Janet Solander

20 2. Judge: Joe Hardy

21 3. Appellant(s): Janet Solander

22 Counsel:

23 Janet Solander #1200370
24 P.O. Box 650
Indian Springs, NV 89070

25 4. Respondent (s): State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

A-21-840177-W

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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, August 30, 2021
***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 26, 2021
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: No
- Supreme Court Docket Number(s): N/A
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 1 day of December 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: Janet Solander

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

Electronically Filed
12/07/2021

Heather L. Smith
CLERK OF THE COURT

In The 8th Judicial District Court of the State of Nevada
In and for the County of Clark

In the matter of:

Janet Solander

Plaintiff/Petitioner

v. State of Nevada

Defendant/Respondent

Case No: A-21-840177-W

Dept No.: 15

REQUEST FOR SUBMISSION OF MOTION

It is requested that the Motion for

MOTION TO RECONSIDER DECISION

which was filed on the 8th day of November, 2021 in the above-entitled matter be submitted
to the Court for decision.

The undersigned certifies that a copy of this request has been mailed to all counsel of record.

Dated this 8th day of November, 2021

Respectfully submitted,

Janet Solander
Signature

Janet Solander
Print Name

CLERK OF THE COURT

NOV 15 2021

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Heather L. Linn
CLERK OF THE COURT

Janet Solander # 1200370

Florence McClure Women's Correctional Center
4370 Smiley Road
Las Vegas, NV 89115

In the 8th Judicial District Court of the State of Nevada
In and for the County of Clark

In the matter of:

Janet Solander

Plaintiff/Petitioner

V.

State of Nevada

Defendant/Respondent

Case No: A-21-840177-N

Dept. No: 15

MOTION TO RECONSIDER DECISION

Now comes petitioner, Janet Solander, a pro se litigant in the above-captioned matter and submits to this Honorable Court a motion to reconsider Decision based on papers and pleadings on file herein and the Petitioner's attached Statement of Facts.

Dated this 8th day of November, 2021

Respectfully submitted
Janet Solander
Janet Solander

CLERK OF THE COURT

NOV 9 5 2021

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STATEMENT OF FACTS

On November 4, 2021, I received "COURT ORDERED the Petition for Writ of Habeas Corpus, as well as the Plaintiff's Motion for Appointment of Attorney, were hereby DENIED, COURT FURTHER ORDERED the Motion to Withdraw Counsel, was hereby GRANTED. The COURT FOUND the following: (1) the Plaintiff did not have a right to counsel on a post-conviction petition; (2) the Court may use its discretion to appoint counsel under appropriate circumstances; however, those circumstances were not present in the instant case; and (3) the substance of the Petition for Writ of Habeas Corpus was substantively denied for all of the reasons set forth in the State's Response."

I am not understanding why my Motion for Appointment of Attorney was DENIED, as I am indigent and my new counsel must be presenting my constitutional rights. My counsel's failure to investigate the facts, ② failure to call witnesses, ③ failure to consider the legal defenses of self-defense, ④ failure to spend any time in legal research denied my effective assistant of counsel under U.S. Constitution Amendment 6, and article 1 Sect 8 of the Nevada Constitution.

I did not testify in my own defense and there is no reason why I did not do so, given my post-conviction statement.

Buffalo vs. The State of Nevada

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DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 8th day of November, 20 21

Janet Solander
Signature

1200370
Nevada Department of Corrections #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF Clark

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent

Janet Solander for Case No: A-21-840177-W.

On this 8th day of November, 2021, I mailed a copy of the

Following document(s):

1. Motion to Reconsider Decision
2. REQUEST FOR SUBMISSION OF MOTION
3. Attachment
4. _____
5. _____

By United States First Class Mail, to the following addresses:

1. Clark of Court
8th Judicial District Court
200 Lewis Avenue
Las Vegas, NV 89155
2. _____
3. _____
4. _____

Dated this 8th day of November, 2021.

Respectfully submitted,

Janet Solander
Signature
Janet Solander
Printed Name

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Dated this 8th day of November, 2021

Janet Solander
Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102
² NRS 208.165
³ 28 U.S.C.
§1746. Unsworn declarations under penalty of perjury
18 U.S.C.
§ 1621. Perjury generally

DECLARATION UNDER PENALTY OF PERJURY

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Dated this 8th day of November, 2021


Signature

1200370
Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

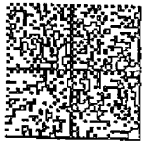
§ 1621. Perjury generally



EIGHTH JUDICIAL DISTRICT COURT
REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS NV 89155

RETURN SERVICE REQUESTED

PRESORTED
FIRST CLASS



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ATTACHMENT
Janet Solander

US-NV03

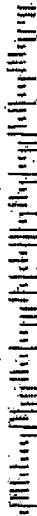
RECEIVED

NOV 04 2021

ENWCC

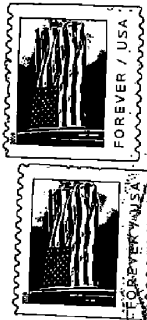
Janet Solander #1200370
Florence McClure Womens Correctional Center
4370 Smiley Road
Las Vegas, NV 89115

125 HRCFNP 5515



U.S. MAIL
POSTAGE
PAID
PERMIT NO. 100
LAS VEGAS, NV

JANET SOLANDER
FAYWEE 1200370
4370 Smiley RD
LAS VEGAS, NV 89115



Las Vegas P&DC 89199
WED 10 NOV 2021 PM

CLERK OF COURT
8th JUDICIAL DISTRICT COURT
200 LEWIS AVENUE
LAS VEGAS, NV 89155

RECEIVED
NOV 15 2021
CLERK OF THE COURT

NOV 10 2021
JUL 20 2021

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

October 28, 2021

A-21-840177-W	Janet Solander, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

October 28, 2021 8:30 AM All Pending Motions

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Clemons, Jennifer M.	Attorney
	State of Nevada	Defendant

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR APPOINTMENT OF ATTORNEY...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL

The State present via Blue Jeans.

The Court noted that it reviewed the Petition for Writ of Habeas Corpus, the Motion for Appointment of Attorney, the Motion to Withdraw Counsel, and the State's Response. Without hearing any oral argument, COURT ORDERED the Petition for Writ of Habeas Corpus, as well as the Plaintiff's Motion for Appointment of Attorney, were hereby DENIED. COURT FURTHER ORDERED the Motion to Withdraw Counsel, was hereby GRANTED. The COURT FOUND the following: (1) the Plaintiff did not have a right to counsel on a post-conviction Petition; (2) the Court may use its discretion to appoint counsel under appropriate circumstances; however, those circumstances were not present in the instant case; and (3) the substance of the Petition for Writ of Habeas Corpus was

PRINT DATE: 12/22/2021

Page 1 of 2

Minutes Date: October 28, 2021

substantively denied for all of the reasons set forth in the State's Response.

The State to prepare the written Order, incorporating the reasons set forth in its Response as the Court's Findings, and submit it directly to chambers.

COURT ORDERED a status check regarding the submittal of the written Order, was hereby SET on this department's chambers calendar.

11/18/21 (CHAMBERS) STATUS CHECK: SUBMITTAL OF ORDER

CLERK'S NOTE: A copy of this minute order was provided to Plaintiff via U.S. mail: Janet Solander #1200370 [Florence McClure Womens Correctional Center 4370 Smiley Road Las Vegas, NV 89115]. (KD 10/28/21)

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated December 10, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 136.

JANET SOLANDER,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-21-840177-W

Dept. No: XV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 22 day of December 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk