

FILED

JUL 29 2022

1 IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

2
3 Justin Odell Langford,

No. ~~83016~~ COA 84284-COA

4 Appellant

5 vs.

6 Renee Baker, Warden, et al.

7 Respondents

8
9 MOTION FOR REHEARING PURSUANT TO NRAP 40

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11 COMES Now, Justin Odell Langford, In Pro per, to file his
12 Motion For Rehearing Pursuant To NRAP 40, and Moves this
13 Honorable Court For an order Granting his appeal.

14 This motion is made and based upon NRAP 40, and
15 is further made and based upon all papers, pleadings,
16 and documents on file with this Court and the
17 attached Memorandum of Points and Authorities.
18 Date: July 25TH 2022

19
20 Respectfully Submitted

21 Justin Odell Langford
22 Justin Odell Langford-1159546

23 LCC, 1200 Prison Road
24 Lovelock, Nev. 89419

25
26 RECEIVED

JUL 29 2022

27 ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

Under the following *Baith v. Churner*, 206 F3d 289 (3rd cir. 2000); *Herron v. Harrison*, 203 F3d 410 (6th cir. 2000); *Boag v. MacDougall*, 454 U.S. 364, 70 L. Ed. 2d 551, 102 S.Ct. 700 (1982); *Haines v. Kerner*, 404 U.S. 519, 30 L. Ed. 2d 652, 92 S.Ct. 594 (1972) "Pro se litigants pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers; if court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigants unfamiliarity with pleading requirements." Another words the Court can't do what it did at pg. 2 of the order of Affirmance wherein it stated "Langford's claims did not implicate the jurisdiction of the courts. See Nev. Const. Art. 6, 3.6(1); NRS 171.010; ~~entitled~~ *United States v. Cotton*...".

The Petitioner Stated several times through out his Petition and his ~~apert~~ appeal brief, so it was that he was challenging the jurisdiction by stating that jurisdictional claims can't be waived, procedurally barred, or defaulted by the courts or by law. So it was obvious that petitioner was challenging the jurisdiction of the Court.

Petitioner also didn't say the Court lost ~~jurisdiction~~ jurisdiction over this matter when the State improperly amended the information, see pg. 8 line 27 to pg. 10 line 12 wherein the Petitioner is arguing that the Court lacked jurisdiction due to the charges filed

by the state "WERE NOT AUTHORIZED" by any court in this state. The BindOver Order has the Authorized Charges that Petitioner was suppose to go to trial on.

And the Trial Court deftly lost jurisdiction to conduct the trial once it exceeded its authority by failing to follow NRS 175.111 in which the Nev. Sup. Ct. already ruled that it is mandatory for the judge to swear in the jury and declared it a structural error. see *Barral v. State*, 353 P.3d 1197, 2015 Nev. Lexis 58, 131 Nev. Adv. Rep. 52 and declared it a structural error that is on automatic reversal. But the Petitioner took it a step further by arguing the Judge exceeded its authority thus losing jurisdiction. see *West v. West*, 127 P.2d 934, 937 ("A departure by a court from those recognized and established requirements of the law however close and apparent. Adherence to mere form in methods of procedure which has the effect of depriving one of a constitutional right is an excess of jurisdiction"), in which it did as the Nev. Sup. Ct. declared it violates a Defendants Constitutional Sixth Amendment right to an impartial jury. see *Barral*, 353 P.3d 1198-99.

When a Judge does not follow the law, the Judge loses subject-matter jurisdiction and the Judges orders are not voidable but VOID, and of no legal force or effect. see *Stock v. Medical Examiners*, 94 Cal. 751, 291 P.2d 289

In *Interest of M.V.*, ~~288~~ 288 Ill. App. 3d 300, 681 N.E.2d 532 (1st Dist. 1997) "Where a court's power to act is controlled by statute [NRS 175.111], the court is governed by the rules of limited jurisdiction, and courts exercising jurisdiction over such matters must proceed within the structures of the statute." Again NRS 0.025(1)(d) "shall" is mandatory, thus by having the Court Clerk swear in the jury for the actual trial the Judge lost Jurisdiction rendering petitioners Judgment of Conviction VOID.

And as it goes for the Challenge to the Constitutionality of Lewdness statute (NRS 201.202-230) this Challenge is made based on the ruling in *Honea v. State* (2020) by the Nev. Sup. Ct., anotherwards it was not available within the 1 year deadline as it's based on a case decided after Petitioners' 1 year deadline and it is a viable claim of overbroad and Entrapment.

The State disclosed all records relating to a Towel they took photos of and presented to the jury, and that towel was $4\frac{1}{2}$ feet long by $2\frac{1}{2}$ feet wide. That is not what the alleged victim had described see appeal brief pg. 11 Line 27 to pg. 12 Line 7, for what evidence they did hand over. Now look at TT Day 3 pg. 86 Lines 8-10, that is the evidence the State didn't hand over and are claiming they have in their Judicial Admissions. Again The Appellant nor any attorney for Appellant have seen

the towel that was actually described, That's' because if they do have the towel the alleged victim described it proves the Appellant is innocent, this does result in a fundamental miscarriage of Justice resulting in a conviction of someone who is actually innocent. If the State Can't Produce what they claim they have, see Appeal Brief pg. 11 lines 13-26, means the State has equivocally lost it or destroyed it. Either way it goes ^{that} they with held any proof of a rag existing that is 12 inch by 6 inch in diameter as described by the alleged victim.

And the Court Can't Claim that a jury could convict Appellant based on new evidence or any evidence previously presented at a trial as jeopardy don't attach until a properly sworn jury. See *Martinez v. Illinois*, 134 S.Ct. 2020 (2014); see also NRS 175.111 and Appellants jury was not properly sworn. Now Appellant ask this Court to afford him equal protection of the law.

CONCLUSION

WHEREFORE Appellant Prays this Honorable Court Grants him a rehearing based on the above, then actually reads the brief to see the fact he