

Electronically Filed  
Jan 26 2022 08:47 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL L. COTA,

Appellant,

vs.

Case No. 2018-CR-00084  
2018-CR-00084BD

THE STATE OF NEVADA,

Respondent,

---

RECORD ON APPEAL

VOLUME 5

COPIES OF ORIGINAL PLEADINGS  
PAGES 610-730

MICHAEL L. COTA  
INMATE #1206075  
ELY STATE PRISON  
P.O. BOX 1989  
ELY, NEVADA 89301

IN PROPER PERSON

THE STATE OF NEVADA

DOUGLAS COUNTY DISTRICT ATTORNEY

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FILED

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DEC - 7 2021

2021 DEC - 7 IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS R. WILLIAMS  
CLERK

MICHAEL LUIS COTA,

DEPUTY

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

MICHAEL LUIS COTA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 83775

2018-CR-00084

No. 83342

18-CR-00117

FILED

DEC 03 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

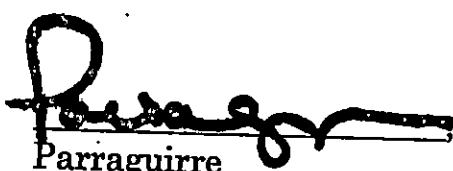
BY  DEPUTY CLERK

ORDER DISMISSING APPEALS

These are pro se appeals from a district court "order denying motion to hold John Malone in contempt."<sup>1</sup> Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Because no statute or court rule permits an appeal from the aforementioned order, this court lacks jurisdiction to consider these appeals. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court

ORDERS these appeals DISMISSED.

 J.  
Parraguirre

 J.  
Stiglich

 J.  
Silver

<sup>1</sup>It appears that the order was only entered in district court case number 2018-CR-00116.

cc: Hon. Thomas W. Gregory, District Judge  
Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

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DEC 16 2021

Douglas County  
District Court Clerk

Form 2. Case Appeal Statement

FILED

No. 2018-CR-00084

Dept. No. II

2021 DEC 16 AM 9:16

BONNIE D. WILLIAMS  
CLERK

BY  DEPUTY

STATE OF NEVADA,

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

Plaintiff,

vs

MICHAEL COTA,

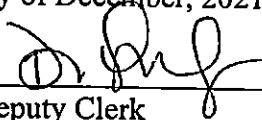
Defendant.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:  
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:  
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:  
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301– In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):  
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):  
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: The defendant was represented by appointed John Maloné, the Court discharged John Malone on 5/21/2020. The defendant is now representing himself.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:  
John Malone represented the defendant for the Notice of Appeal of the Judgment of Conviction only.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:  
The appellant has not been granted leave to proceed in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): The information was filed on 5/29/2018.

10. Provide a brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the court: The defendant is appealing the Court's Order Denying Peremptory Challenge entered on 11/10/2021.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:  
No. 83775, 83774 and 83773.
12. Indicate whether this appeal involves child custody or visitation:  
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:  
No.

Dated this 16<sup>th</sup> day of December, 2021



---

Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820



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DEC 16 2021

Douglas County  
District Court Clerk

Form 2. Case Appeal Statement

FILED

No. 2018-CR-00084

Dept. No. II

2021 DEC 16 AM 9:13

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

BOBBIE R. WILLIAMS  
CLERK

DEPUTY  
STATE OF NEVADA,

Plaintiff,

vs

MICHAEL COTA,

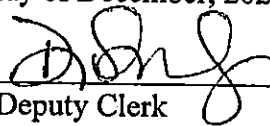
Defendant.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:  
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:  
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:  
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301- In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):  
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
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No.
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No.

Dated this 16<sup>th</sup> day of December, 2021



Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820

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DEC 16 2021

Douglas County  
District Court Clerk

Dept. No. II

FILED Form 2. Case Appeal Statement

No. 2018-CR-00084  
2021 DEC 16 AM 9:05

BOBBIE R. WILLIAMS  
CLERK

DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

vs

MICHAEL COTA,

Defendant.

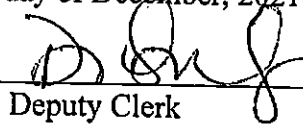
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Michael Cota.
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Honorable Thomas W. Gregory.
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616

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No. 83775, 83774 and 83773.
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No.

Dated this 16<sup>th</sup> day of December, 2021



Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820

RECEIVED

Form 2. Case Appeal Statement

DEC 16 2021

FILED

No. 2018-CR-00084

Douglas County  
District Court Clerk

Dept. No. II

2021 DEC 16 AM 8:58

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

BOBBY E. WILLIAMS  
CLERK  
BY *[Signature]* DEPUTY  
STATE OF NEVADA,

Plaintiff,

vs

MICHAEL COTA,

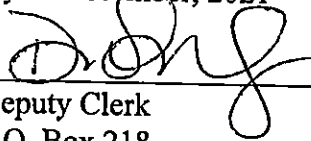
Defendant.

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Michael Cota.
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Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:  
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301- In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):  
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):  
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: The defendant was represented by appointed John Malone, the Court discharged John Malone on 5/21/2020. The defendant is now representing himself.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:  
John Malone represented the defendant for the Notice of Appeal of the Judgment of Conviction only.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:  
The appellant has not been granted leave to proceed in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): The information was filed on 5/29/2018.

10. Provide a brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the court: The defendant is appealing the Court's Order Denying Motion to Change Venue entered on 11/10/2021.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:  
No. 83775, 83774 and 83773.
12. Indicate whether this appeal involves child custody or visitation:  
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:  
No.

Dated this 16<sup>th</sup> day of December, 2021



---

Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820

**RECEIVED**

DEC 23 2021

Douglas County  
District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

2021 DEC 23 AM 11:39

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

BOBBIE R. WILLIAMS  
CLERK

**Supreme Court No. 83954**  
District Court Case No. 18-CR-00084

BY [Signature] DEPUTY

**RECEIPT FOR DOCUMENTS**

TO: Michael Luis Cota  
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney  
Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/21/2021 Appeal Filing Fee waived. Criminal. (SC)  
12/21/2021 Filed Notice of Appeal/Proper Person. Appeal docketed in the  
Supreme Court this day. (SC)

DATE: December 21, 2021

Elizabeth A. Brown, Clerk of Court  
lh

620

**RECEIVED**

DEC 23 2021

Douglas County  
District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

2021 DEC 23 AM 11:39

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

BOBBIE R. WILLIAMS  
CLERK

*[Signature]*  
DEPUTY

**Supreme Court No. 83955**  
District Court Case No. 18-CR-00084

**RECEIPT FOR DOCUMENTS**

TO: Michael Luis Cota  
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney  
Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/21/2021      Appeal Filing Fee waived. Criminal. (SC)  
12/21/2021      Filed Notice of Appeal/Proper Person. Appeal docketed in the  
Supreme Court this day. (SC)

DATE: December 21, 2021

Elizabeth A. Brown, Clerk of Court  
lh



**RECEIVED**

DEC 23 2021

Douglas County  
District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

2021 DEC 23 AM 11:39

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

BOBBIE R. WILLIAMS  
CLERK

**Supreme Court No. 83956**  
District Court Case No. 18-CR-00084

**RECEIPT FOR DOCUMENTS**

TO: Michael Luis Cota  
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney  
Bobbie W. Williams, Douglas County Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/21/2021 Appeal Filing Fee waived. Criminal. (SC)  
12/21/2021 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: December 21, 2021

Elizabeth A. Brown, Clerk of Court  
lh

**RECEIVED**

**DEC 23 2021**

Douglas County  
District Court Clerk

**MICHAEL LUIS COTA,**

Appellant,

vs.

**THE STATE OF NEVADA,**

Respondent.

**FILED IN THE SUPREME COURT OF THE STATE OF NEVADA**

**OFFICE OF THE CLERK**

**2021 DEC 23 AM 11:39**

**Supreme Court No. 83957**

District Court Case No. 18-CR-00084

**BOBBIE R. WILLIAMS**

CLERK

DEPUTY

**RECEIPT FOR DOCUMENTS**

TO: Michael Luis Cota

Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney

Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/21/2021 Appeal Filing Fee waived. Criminal. (SC)

12/21/2021 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: December 21, 2021

Elizabeth A. Brown, Clerk of Court

lh

623

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

RECEIVED

JAN - 3 2022

Douglas County  
District Court Clerk

Supreme Court No. 83775  
District Court Case No. 18-CR-00084

DEBBIE R. WILLIAMS

CLERK

BY: [Signature] DEPUTY

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS these appeals DISMISSED."

Judgment, as quoted above, entered this 3rd day of December, 2021.

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

Elizabeth A. Brown, Supreme Court Clerk

By: Sandy Young  
Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

RECEIVED

JAN - 3 2022

Douglas County  
District Court Clerk

Supreme Court No. 88775  
District Court Case No. 18-CR-00084

BOBBIE W. WILLIAMS

CLERK  
BY: [Signature] DEPUTY

REMITTITUR

TO: Bobbie W. Williams, Douglas County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: December 30, 2021

Elizabeth A. Brown, Clerk of Court

By: Sandy Young  
Deputy Clerk

cc (without enclosures):

Hon. Thomas W. Gregory, District Judge  
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney  
Michael Luis Cota

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on January 3, 2022.

[Signature]  
District Court Clerk

625

RECEIVED

JAN - 3 2022

Douglas County  
District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

2018-CR-00084

AM 11:46

ROBBIE R. WILDIAMS  
CLERK

No. 83775  
DEPUTY

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

MICHAEL LUIS COTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83842  
FILED

DEC 03 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK


ORDER DISMISSING APPEALS

These are pro se appeals from a district court "order denying motion to hold John Malone in contempt."<sup>1</sup> Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Because no statute or court rule permits an appeal from the aforementioned order, this court lacks jurisdiction to consider these appeals. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court

ORDERS these appeals DISMISSED.

 J.  
Parraguirre

 J.  
Stiglich

 J.  
Silver

<sup>1</sup>It appears that the order was only entered in district court case number 2018-CR-00116.

626

21-34565

cc: Hon. Thomas W. Gregory, District Judge  
Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

RECEIVED

JAN - 7 2022

(Additional pages if needed; identify what is being continued.)

Douglas County  
District Court Clerk

FILED

NINTH JUDICIAL DISTRICT COURT

DOUGLAS COUNTY NEVADA

2022 JAN - 7 AM 10:56

BOBBIE R. WILLIAMS

CLERK  
BY [Signature] DEPUTY

STATE OF NEVADA

CASE NO's

PLAINTIFF

18-CR-0084 ✓

VS.

18-CR-0116

MICHAEL LUIS COTA

Defendant

MOTION TO HOLD JOHN MALONE IN CONTEMPT.

FIRST MR COTA IS AWARE OF DCR 13, THIS MOTION OF CONTEMPT HAS NOTHING TO DO WITH FORMER MOTIONS, THIS IS THAT FORMER COUNSEL JOHN MALONE YET AGAIN DEFIES THIS COURTS ORDERS ON NOV 10, 2021 THIS COURT ORDERED MR MALONE TO COMMUNICATE WITH MR COTA AND RESEND THE FILE. MR MALONE HAS AGAIN IGNORED THE ORDER. MR COTA CONTENDS THAT THE RECEIPTS MR MALONE FILED WITH HIS AFFADIVIT ARE FICTICIOUS UNLESS THIS COURT CHOOSES TO BELIEVE THAT ON ONE DAY MR MALONE SHIPPED 4 BOXES TO MR COTA, FROM 3 DIFFERENT FED EX LOCATIONS IN 2 DIFFERENT COUNTIES. ESP KEEPS LEGAL RECORDS OF ALL INCOMING LEGAL DELIVERIES.

DATED THIS 2ND DAY OF JANUARY 2022

[Signature]

628

RECEIVED

JAN 12 2022

Douglas County  
District Court Clerk

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

2022 JAN 12 AM 3:27  
2018-CR-00084  
DOLORE H. WILLIAMS  
CLERK

MICHAEL LUIS COTA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 83956

FILED

JAN 10 2022

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

**ORDER DIRECTING TRANSMISSION OF RECORD  
AND REGARDING BRIEFING**

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

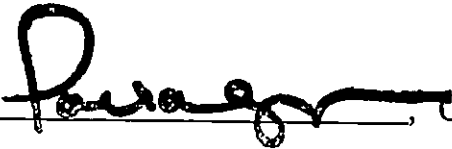
629

22-00925



46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

 C.J.

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

Case No. 18-CR-00084, 18-CR-00116

Dept. No. 11

RECEIVED

AUG 09 2021

2021 AUG -9 AM 10:37

Douglas County  
District Court Clerk

BOLLIE R. WILLIAMS  
CLERK

IN THE NINTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS BY [Signature] DEPUTY

MICHAEL COTA  
Petitioner,

v.

Warden William GITTERE  
Respondent.

**PETITION FOR WRIT  
OF HABEAS CORPUS  
(POSTCONVICTION)**

**INSTRUCTIONS**

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you're not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.
- (6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

### PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: ELY STATE PRISON WHITE PINE

COUNTY

2. Name and location of court which entered the judgment of conviction under attack: DOUGLAS COUNTY DISTRICT COURT

3. Date of judgment of conviction: Sept 10, 2018

4. Case number: 18-CR-00084 18-CR-00116

5. (a) Length of sentence: 12mos - 72mos CONSECUTIVE  
24 MONTHS TO 72 MONTHS

(b) If sentence is death, state any date upon which execution is scheduled: \_\_\_\_\_

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes \_\_\_\_\_ No X

If "yes", list crime, case number and sentence being served at this time: \_\_\_\_\_

7. Nature of offense involved in conviction being challenged: OF A FIREARM, BATTERY BY PRISONER (1) PRINCIPAL TO GRAND LARCENY

8. What was your plea? (check one):

(a) Not guilty \_\_\_\_\_ (b) Guilty X (c) Nolo contendere \_\_\_\_\_

9. If you entered a plea of guilty 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 was negotiated, give details: \_\_\_\_\_

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 X No \_\_\_\_\_

13. If you did appeal, answer the following:

(a) Name of Court: NEVADA SUPREME COURT

(b) Case number or citation: # 77414-COA # 77415-COA

(c) Result: AFFIRMED

(d) Date of result: \_\_\_\_\_

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal?

Yes \_\_\_\_\_ No X

16. If your answer to No. 15 was "yes", give the following information:

(a)(1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes \_\_\_\_\_ No \_\_\_\_\_

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: \_\_\_\_\_  
\_\_\_\_\_

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: NA

(3) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes \_\_\_\_\_ No \_\_\_\_\_

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(7) If known, citations of any written opinion or date of orders entered pursuant to such a result: \_\_\_\_\_  
\_\_\_\_\_

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) 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 \_\_\_\_\_

Citation or date of decision: NA

(2) Second petition, application or motion? Yes \_\_\_\_\_ No \_\_\_\_\_

Citation or date of decision: \_\_\_\_\_

(3) Third or subsequent petitions, applications or motions? Yes \_\_\_\_\_ No \_\_\_\_\_

Citation or date of decision: \_\_\_\_\_

(e) 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 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. 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 postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: NA

(b) The proceedings in which these grounds were raised: \_\_\_\_\_

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) \_\_\_\_\_

18. If any of the grounds listed in No.'s 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds 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 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) \_\_\_\_\_

19. Are you filing this petition more than one 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 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) N/A

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes \_\_\_\_\_ No X  
If yes, state what court and case number: \_\_\_\_\_

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: JOHN MALONE

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes \_\_\_\_\_ No X  
If yes, specify where and when it is to be served, if you know: \_\_\_\_\_

23. 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 additional grounds and facts supporting same.

(a) Ground One: VIOLATION OF DUE PROCESS OF LAW  
NRS 624.030 specifically spells out due process.

Supporting FACTS (Tell your story briefly without citing cases or law.): NRS 624.030 STATES  
"STATUTORY Procedures Are in Place For Sealing Juvenile Records  
UNDER 21 yrs of Age" MR COTA WAS IN FACT ONLY 19 YEARS  
OLD. NRS 624.030 (2) ADDITIONALLY STATES THAT Juvenile Records  
May only be opened by COURT ORDER. MR COTA'S Juvenile Records  
Were used Against him with NO MOTION, HEARING OR COURT ORDER.  
THIS RESULTED IN AN ILLEGAL SENTENCE.

(b) Ground Two: VIOLATION OF EQUAL PROTECTION

Supporting FACTS (Tell your story briefly without citing cases or law.): DO INCORPORATE  
ALL FACTS IN GROUND ONE INTO GROUND TWO. NRS 624.030(2)  
Is Designed TO PROTECT Juvenile COURT Records. MR COTA'S  
Records Were JUST TAKEN Unlawfully BY THE STATE ATTORNEY  
AND He, JUDGE USED Them Against MR COTA AT sentencing  
THIS VIOLATING EQUAL PROTECTION!

(c) Ground Three: \_\_\_\_\_

Supporting FACTS (Tell your story briefly without citing cases or law.): \_\_\_\_\_

(d) Ground Four: \_\_\_\_\_

Supporting FACTS (Tell your story briefly without citing cases or law.): \_\_\_\_\_

**DECLARATION PURSUANT TO: N.R.S. 208.165**

I, MICHAEL COTA, OF INMATE IDENTIFICATION  
NUMBER: 1206075, AM A LAWFULLY  
COMMITTED PRISONER OF THE NEVADA DEPARTMENT OF  
CORRECTIONS, PRESENTLY IN THE LAWFUL CARE AND  
CUSTODY OF ELY STATE PRISON, LOCATED AT: 12000 NORTH  
BOTHWICK ROAD, (MAILING) P.O. BOX 1989, IN CITY OF: ELY,  
COUNTY: WHITE PINE, STATE: NEVADA, 89301. DOES AFFIRM

THAT THE ATTACHED DOCUMENT  
ENTITLED: PETITION FOR WRIT OF HABEAS CORPUS,  
IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE &  
BELIEF, AND ANY FALSE STATEMENT OF MATERIAL FACT  
MADE THERE IN SHALL BE SUBJECTED TO THE PAINS AND  
PENALTIES OF PERJURY PURSUANT TO: N.R.S. 208.165,  
THIS, 4<sup>TH</sup> DAY OF: AUGUST, 2021.

INMATE SIGNATURE: MICHAEL COTA

INMATE NAME (PRINTED): MICHAEL COTA

ADDRESS: ELY STATE PRISON

P.O. BOX 1989, ELY, NEVADA 89301

**AFFIRMATION PURSUANT TO NRS 239B.030**

I, MICHAEL COTA, NDOC# 1206075,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE  
ATTACHED DOCUMENT ENTITLED PETITION FOR WRIT OF  
HABEAS CORPUS

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY  
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 4th DAY OF August, 2021.

SIGNATURE: M J Cota II

INMATE PRINTED NAME: MICHAEL COTA

INMATE NDOC # 1206075

INMATE ADDRESS: ELY STATE PRISON  
P. O. BOX 1989  
ELY, NV 89301



1 Case No. 2018-CR-00084B

2 Dept. No. II

AUG 12 2021

Douglas County  
District Court Clerk

FILED  
2021 AUG 12 AM 8:52

BOBBIE R. WILLIAMS  
CLERK

*[Signature]*  
DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF DOUGLAS

9 MICHAEL COTA,

10 Petitioner,

11 vs.

ORDER

12 WARDEN, Nevada Department of  
13 Corrections,

14 Respondent.

15 Petitioner filed a *Petition for Writ of Habeas Corpus* (Post-  
16 Conviction) on August 9, 2021. The *Petition* has not been served  
17 on the Attorney General or the District Attorney. NRS 34.730.  
18 Petitioner shall, no later than September 12, 2021, serve the  
19 Attorney General and the District Attorney with conformed copies  
20 of the *Petition* and file proof of service with the Court. Failure  
21 to comply will result in dismissal of the *Petition*.

22 The State shall, within 45 days of service of the *Petition*,  
23 respond to the *Petition* and file a return in accordance with the

24 ///

25 ///

26 ///

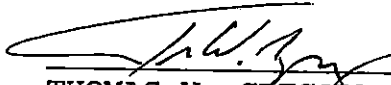
27 ///

28 ///

1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a  
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12<sup>th</sup> day of August, 2021.

5  
6   
7 THOMAS W. GREGORY  
8 DISTRICT JUDGE  
9

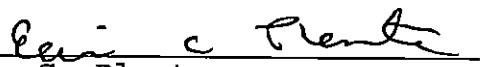
10 Copies served by mail/hand delivery on August 12<sup>th</sup>, 2021,  
11 addressed to:

12 Michael Cota (Mail)  
13 #1206075

14 Ely State Prison  
15 P.O. Box 1989  
16 Ely, Nevada 89301

17 Douglas County District Attorney's Office (Hand Delivery)  
18 1038 Buckeye Road  
19 Minden, Nevada 89423

20 Office of the Attorney General (Mail)  
21 100 N. Carson Street  
22 Carson City, Nevada 898701

23  
24   
25 Erin C. Plante  
26  
27  
28

RECEIVED

AUG 19 2021

Douglas County  
District Court Clerk

FILED

2021 AUG 19 PM 12:08

BOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

9th JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0084-B

18-CR-0116

STATE TORT COMPLAINT

NOTICE OF COUNSEL

COMES NOW, MICHAEL COTA, in PRO PER and herein above respectfully

Moves this Honorable Court for a NOTICE OF COUNSEL

The above is made and based on the following Memorandum of Points and Authorities.

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AS OF THE DATE OF THIS FILING LET THE RECORD  
SHOW THAT ATTORNEY JOHN JARRIS OF LAS VEGAS IS  
MY RETAINED COUNSEL AND (AND) (CANNOT BE)  
LEFT BUSINESS AND REPRESENTATION IN BOKE  
OF THE ABOVE REFERRED CASES AS WELL AS  
MY STATE TORT COMPLAINT.

Dated this 16th day of August, 2021

By: *W. J. Jarriss*

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

NOTICE OF COUNSEL

Filed in case number: CR-18-0084 & CR-18-0116, STATE TORT COMPLAINT

☒ Document does not contain the social security number of any person

Or

☐ Document contains the social security number of a person as required by:

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 8/16/21

*M L Cota*  
(Signature)

MICHAEL COTA  
(Print Name)

Pro Se  
(Attorney for)

RECEIVED

AUG 20 2021

Douglas County  
District Court Clerk

FILED

2021 AUG 20 AM 9:54

BOBBIE R. WILLIAMS  
CLERK

BY Walden DEPUTY

9th JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, WARDEN GITTERE

Defendant(s).

CASE NO.

18-CR-0084 ✓ B

18-CR-0116

## NOTICE OF COMPLIANCE

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a NOTICE OF COMPLIANCE TO

THIS COURTS ORDER FOR PROOF OF SERVICE ON

THE PETITION FOR WRIT OF HABEAS CORPUS

FILED IN THE ABOVE REFERENCED CASE.

The above is made and based on the following Memorandum of Points and Authorities.

643

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein  
and that on this 17<sup>th</sup> day of August, 2021, I mailed a true and correct copy of this  
foregoing PETITION FOR WRIT OF HABEAS to the following:  
CORPUS

DOUGLAS COUNTY DISTRICT ATTY.  
1038 Buckeye RD  
MINDEN, NV 89423

ATTORNEY GENERAL  
100 N. CARSON ST.  
CARSON CITY, NV 89701

BY: X M. P. [Signature]

CASE NO. CR184 18-CR-0084B  
DEPT. NO. 11

FILED

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2021 AUG 26 AM 10:00

AUG 26 2021

BOBBIE R. WILLIAMS  
CLERK

Douglas County  
District Court Clerk

BY [Signature] DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA  
Petitioner

vs.

STATE OF NEVADA,

Respondent

**POSTCONVICTION PETITION  
REQUESTING A GENETIC MARKER  
ANALYSIS OF EVIDENCE WITHIN  
THE POSSESSION OR CUSTODY  
OF THE STATE OF NEVADA  
(NRS 176.0918)**

TO: THE CLERK OF THE COURT FOR DOUGLAS COUNTY,  
(County Where Petitioner Was Convicted)  
STATE OF NEVADA; THE ATTORNEY GENERAL OF THE STATE OF NEVADA,  
AND; THE OFFICE OF THE DISTRICT ATTORNEY FOR THE STATE OF  
NEVADA, COUNTY OF DOUGLAS  
(County of District Attorney Where Petitioner Was Convicted)

1. I, MICHAEL COTA, am the Petitioner in this matter. This  
(Name of Petitioner / Convicted Inmate)  
Petition requests this Court to issue an Order for a Genetic Marker Analysis of evidence  
pursuant to NRS 176.0918.

2. Petitioner is informed and believes, and on the basis of such belief, alleges in good  
faith that the State of Nevada, or a political subdivision of the State of Nevada, has  
possession and control evidence in the form of Genetic Marker Information relating to the  
investigation or prosecution that resulted in Petitioner's Judgment of Conviction.



3. The Petitioner was convicted of committing all of the following Category A or Category B felony / felonies:

Crime's NRS	Title of Crime	Category A or B	Date of Conviction
NRS 205.226 NRS 195.020	PRINCIPAL TO GRAND LARCENY OF FIREARM	B	SEPT. 10, 2018

Crime's NRS	Title of Crime	Category A or B	Date of Conviction

Crime's NRS	Title of Crime	Category A or B	Date of Conviction

Crime's NRS	Title of Crime	Category A or B	Date of Conviction

4. (If applicable) The Petitioner was sentenced to death and the date set for the execution is NA.  
(Date of Execution if known)

5. Pursuant to NRS 176.0918(3)(a), the following information identifies the specific evidence either known or believed by the Petitioner to be in the possession or custody of the State of Nevada that can be subject to Genetic Marker Analysis. (Set forth the identity of such evidence here)

(1) A.R. 15 ASSAULT RIFLE

6. Pursuant to NRS 176.0918(3)(b), the following is the Petitioner's rationale as to why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through Genetic Marker Analysis of the evidence identified in paragraph 5. (Set forth your rationale here)

GENETIC MARKER ANALYSIS WOULD HAVE PROVEN THAT MY  
FINGERPRINTS, OR ANY TYPE OF D.N.A. WAS <sup>NOT</sup> PRESENT ON  
THE A.R.15.

7. Pursuant to NRS 176.0918(3)(c), the type of Genetic Marker Analysis the Petitioner is requesting to be conducted on the evidence identified in paragraph 5 is:

D.N.A. MARKER

8. [If applicable] Pursuant to NRS 176.0918(3)(d), the following are the results of all prior Genetic Marker Analysis performed on the evidence in the trial which resulted in the Petitioner's conviction. (Set forth all of such evidence here)

I WAS NEVER INFORMED OF ANY GENETIC MARKER ANALYSIS IN FACT IM NOT SURE THAT THEY EVEN HAD THE WEAPON THEY ACCUSED ME OF STEALING. IF THEY DID NOT THEN THEY COULD NOT BE IN COMPLIANCE WITH NRS 176.0918

9. (If applicable) Pursuant to NRS 176.0918(3)(e), the following is a statement of the Petitioner that the type of Genetic Marker Analysis the Petitioner is requesting was not available at the time of trial or, if it was available, that the failure to request Genetic Marker Analysis before the Petitioner was convicted was not a result of a strategic or tactical decision as part of the representation of the Petitioner at the trial. (Set forth the applicable facts here)

GENETIC MARKER ANALYSIS WAS AVAILABLE AND THE DISTRICT ATTORNEY'S FAILURE TO HAVE IT PERFORMED SOLELY RESTS ON THE STATE, IF THEY DID NOT FOLLOW NEVADA STATUTE

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

**PRAYER FOR GRANTING OF PETITION**

The petitioner respectfully requests that the Court, pursuant to NRS 176.0918, grant the Petitioner's POSTCONVICTION PETITION REQUESTING A GENETIC MARKER ANALYSIS OF EVIDENCE WITHIN THE POSSESSION OR CUSTODY OF THE STATE OF NEVADA and the Petitioner requests this Court to issue an Order for a Genetic Marker Analysis of evidence pursuant to NRS 176.0918 (9).

Dated this 23rd day of AUGUST 2021

  
(Petitioner's Signature Here)

**DECLARATION OF PETITIONER**

I, MICHAEL COTA, declare and attest under penalty of perjury  
(Name of Petitioner / Convicted Inmate)  
of the laws of the State of Nevada that the information contained in this Petition does not contain any material misrepresentation of fact and that I have a good faith basis for relying on particular facts for the request.

Dated this 23rd day of AUGUST 2021

  
(Petitioner's/Declarant's Signature here)

Douglas County District Attorney  
1038 Buckeye Road  
Minden, NV 89423  
(775) 782-9800 Fax (775) 782-9807

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SEP 15 2021

Douglas County  
District Court Clerk

FILED

2021 SEP 15 PM 2:37

BOBBIE R. WILLIAMS  
CLERK

BY: *AWal* DEPUTY

1 Case No. 18-CR-00084B

2 Dept No. II

3 DA 18-0675M

4 This document does not contain personal information of any person

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7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF DOUGLAS

9  
10 MICHAEL LUIS COTA, JR.,

11 Petitioner,

12 v.

13 THE STATE OF NEVADA,

14 Respondents.

ANSWER TO PETITION FOR WRIT  
OF HABEAS CORPUS (POST-  
CONVICTION)

15  
16  
17 Respondents, by and through, the Douglas County District Attorney's Office, respond  
18 to Michael Luis Cota, Jr.'s, post-conviction petition for a writ of habeas corpus filed in the  
19 above-entitled matter. This response is based on the following memorandum of points and  
20 authorities, as well as all other pleadings, documents, and exhibits on file.

21 ARGUMENT

22 I. Standard of Review

23 "Any person convicted of a crime and under sentence of . . . imprisonment who claims  
24 that the conviction was obtained or that the sentence was imposed in violation of the  
25 Constitution of the United States or the Constitution or laws of this State, may . . . file a post-  
26 conviction petition for a writ of habeas corpus." NRS 34.724(1).

27 ///

28 ///

1           **A.     The Petitioner's Petition is Untimely Filed and Must Be Dismissed.**

2           NRS 34.726(1) provides that where an appeal has been taken from a judgment of  
3 conviction, a post-conviction petition for a writ of habeas corpus that challenges the judgment  
4 of conviction must be filed with the district court "within 1 year after the supreme court issues  
5 its remittitur." *Gonzales v. State*, 118 Nev. 590, 593, 53 P.3d 901, 902 (2002). "This language  
6 is clear and unambiguous." *Id.* "In cases where the defendant has filed a timely direct appeal,  
7 the one-year period for filing a post-conviction habeas petition commences to run from the date  
8 that this court issues its remittitur." *Id.*

9           The Nevada Supreme Court issued its remittitur in this case on April 13, 2020, and  
10 Petitioner failed to file his petition for a writ of habeas corpus before April 13, 2021.  
11 Appellant's petition was therefore untimely filed and, accordingly, it is procedurally barred  
12 absent a demonstration of cause for the delay and undue prejudice, *see* NRS 34.726(1), or a  
13 showing that the procedural grounds should be excused to prevent a fundamental miscarriage  
14 of justice, *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519 (2001), *abrogated on other*  
15 *grounds by Ripppo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1094, 1097, n.12 (2018). Because  
16 Petitioner made no attempt to overcome the procedural bar by making such a demonstration his  
17 petition must be dismissed. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225,  
18 231, 112 P.3d 1070, 1074 (2005) (explaining the application of procedural bars is mandatory).

19           **B.     The Claims in Petitioner's Petition are Procedurally barred and the**  
20                   **claims must be dismissed.**

21           Nevada's procedural bars are mandatory. *See, e.g., Clem v. State*, 119 Nev. 615, 623 n.  
22 43, 81 P.3d 521, 527 n.43 (2003). "Where the defendant has pleaded guilty, the only claims  
23 that may be raised thereafter [in a habeas proceeding] are those involving the voluntariness of  
24 the plea itself and the effectiveness of counsel." *Kirksey v. State*, 112 Nev. 980, 999, 923 P.2d  
25 1102, 1114 (1996); NRS 34.810(1)(a); *see also Yohey v. Wickham*, 460 P.3d 993 (Nev. 2020)  
26 (unpublished) (explaining that a due process claim of court error at sentencing fell outside the  
27 scope of claims permissible in a post-conviction petition for a writ of habeas corpus  
28 challenging a judgment of conviction based on a guilty plea). No such claims are raised by

petitioner and the petition must be dismissed. NRS 34.801(1)(a). Even if petitioner's conviction was a result of a trial, claims in a petition that could have been, (1) "presented to the trial court," or (2) "raised in a direct appeal" must be dismissed unless a petitioner demonstrates good cause and actual prejudice." NRS 34.810(1)(b). Grounds 1 and 2 in the petition could have been presented to the trial court and/or raised in a direct appeal. Petitioner made no attempt to overcome the procedural bars by showing good cause and prejudice. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (explaining the application of procedural bars is mandatory). To the extent petitioner's claims were previously raised on direct appeal, these claims are barred by the doctrine of law of the case which "cannot be avoided by a more detailed and precisely focused argument." *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

**C. Evidentiary Hearing**

This Court must determine whether an evidentiary hearing is required upon review of the return, answer and all supporting documents which are filed. NRS 34.770(1). A petitioner is only "entitled to a post-conviction evidentiary hearing when he asserts claims supported by specific factual allegations not belied by the record that, if true, would entitle him to relief." *Mann v. State*, 118 Nev. 351, 353, 46 P.3d 1228, 1229 (2002). If petitioner does not satisfy that standard, this Court must dismiss the petition without an evidentiary hearing. NRS 34.770(2). Petitioner's allegations in grounds one and two are not supported by specific factual allegations not belied by the record, that, if true, would entitle him to relief. Therefore, the Court must dismiss the petition.

**D. Petitioner's claims lack merit.**

All of Petitioner's claims lack merit. No part of NRS 62H.030 makes Petitioner's sentence illegal. A sentencing Court is not restricted from considering any reliable and relevant evidence at the time of sentencing, NRS 176.015, and its exercise of discretion at sentencing will not be reversed unless its decision is supported solely by impalpable and highly suspect evidence. *Denson v. State*, Nev. 489, 492, 915 P.2d 284, 286 (1996). "Any court of this State may inspect records that are sealed if the records relate to a person who is less than

1 21 years of age and who is to be sentenced by the court in a criminal proceeding." NRS  
2 62H.170(3). A district court violates a defendant's due process rights if it bases  
3 its sentencing decision on "materially untrue assumptions concerning his criminal  
4 record." *State v. Eighth Judicial Dist. Court*, 100 Nev. 90, 96, 677 P.2d 1044, 1048 (1984).  
5 That did not occur here. To establish a successful equal protection claim, the defendant  
6 initially "has the burden of proving 'the existence of purposeful discrimination'" against a class  
7 of persons. *McCleskey v. Kemp*, 481 U.S. 279, 292 (1987) (quoting *Whitus v. Georgia*, 385  
8 U.S. 545, 550 (1967)). Petitioner failed to meet his burden to demonstrate a violation of the  
9 equal protection clause.

#### 10 CONCLUSION

11 Petitioner's claims are untimely, procedurally barred, and meritless. He is not entitled  
12 to an evidentiary hearing and the petition must be dismissed.

13 DATED this 15 day of September, 2021.

14 MARK B. JACKSON  
15 DISTRICT ATTORNEY

16 By: 

17 Matthew Johnson  
18 Deputy District Attorney  
19 1038 Buckeye Road  
20 Minden, NV 89423  
21 (775) 782-9800  
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1 Case No. 18-CR-00084B

2 Dept No. II

3 DA 18-1274M

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7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF DOUGLAS  
9

10 MICHAEL LUIS COTA, JR.,

11 Petitioner,

12 v.

**RETURN (Post-Conviction Petition for  
Writ of Habeas Corpus)**

13 THE STATE OF NEVADA,

14 Respondents.  
15

16  
17 Whereas, a Petition for Writ of Habeas Corpus was filed on or about August 9, 2021, in  
18 the Ninth Judicial District Court of the State of Nevada, in and for the County of Douglas,  
19 return is hereby made and Respondent, State of Nevada, by and through the Douglas County  
20 District Attorney's Office, states as follows:

- 21 1. Petitioner is in the custody of the Nevada Department of Corrections, by virtue of  
22 Judgment of Conviction entered by the Ninth Judicial District Court of the State of  
23 Nevada. A certified copy of the Judgment of Conviction is attached hereto and  
24 incorporated herein by reference.  
25 2. That said conviction was not obtained and said sentence was not imposed in  
26 violation of the constitution of the United States or the constitution or laws of the  
27 State of Nevada.  
28

1 DATED this 15 day of September, 2021.

2 MARK B. JACKSON  
3 DISTRICT ATTORNEY

4 By: 

5 Matthew Johnson  
6 Deputy District Attorney  
7 1038 Buckeye Road  
8 Minden, NV 89423  
9 (775) 782-9800

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11  
12 Douglas County District Attorney  
13 1038 Buckeye Road  
14 Minden, NV 89423  
15 (775) 782-9800 Fax (775) 782-9807  
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MAY 29 2018

Douglas County  
District Court Clerk

FILED

2018 MAY 29 PH 3:20

CODDIE R. WILLIAMS  
CLERK

BY ANTHONY DEPUTY

Case No. 18-CR - <sup>0074</sup>~~0048~~

Dept. No. II

DA Case No. 18-0675M

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff.

vs.

INFORMATION

MICHAEL LUIS COTA,

Defendant.

Matthew Johnson, Deputy District Attorney, within and for the County of Douglas, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court that Michael Luis Cota has committed the crimes of CONSPIRACY TO COMMIT BURGLARY AND/OR LARCENY, a violation of NRS 199.480, a gross misdemeanor, CONSPIRACY TO COMMIT AN OFFENSE INVOLVING STOLEN PROPERTY, a violation of NRS 199.480, a gross misdemeanor. PRINCIPAL TO BURGLARY WITH A DEADLY WEAPON OR A FIREARM, a violation of NRS 205.060(1), (4), NRS 195.020, a category B felony, PRINCIPAL TO GRAND LARCENY OF A FIREARM, a violation of NRS 205.226, NRS 195.020, a category B felony, and PRINCIPAL TO POSSESSION OF STOLEN PROPERTY, a violation of NRS 205.275, NRS 195.020, a category C felony,

The defendant, on or about February 13, 2018, and before the filing of this Information, at and within the County of Douglas, State of Nevada.

**COUNT ONE: CONSPIRACY TO COMMIT BURGLARY  
AND/OR LARCENY, a violation of NRS 199.480,  
a gross misdemeanor**

did willfully and unlawfully conspire with another person to commit burglary and/or larceny, by agreeing with "AG" DOB 11/06/03 to enter the residence located at 1340 Bishop Circle in Gardnerville to steal items inside and/or agreeing with "AG" DOB 11/06/03 to transport "AG" to the residence located at 1340 Bishop Circle in Gardnerville so that "AG" could enter the residence to steal items inside, and in furtherance of said conspiracy, did commit the acts as set forth in Counts 3 and 4 said acts being incorporated by reference as though fully set forth herein,

**COUNT TWO: CONSPIRACY TO COMMIT AN OFFENSE  
INVOLVING STOLEN PROPERTY, a violation  
of NRS 199.480, a gross misdemeanor**

did willfully and unlawfully conspire with another person to commit an offense involving stolen property, as prohibited by NRS 205.275, by agreeing with Robert Donald Brown and/or a male named Oscar, also known as "Cheespa," and/or "AG" DOB 11/06/03 that Oscar and/or Robert Donald Brown, and/or Michael Louis Cota buy, receive, possess, or withhold a stolen firearm(s), and in furtherance of said conspiracy defendant did commit the acts as set forth in Count 5 said acts being incorporated by reference as though fully set forth herein,

**COUNT THREE: PRINCIPAL TO BURGLARY WITH A DEADLY  
WEAPON OR A FIREARM, a violation of NRS  
205.060(1), (4), NRS 195.020 a category B felony**

did willfully and unlawfully enter, any house, room, apartment, warehouse, barn or other building, and/or whether present or absent aid, abet, counsel, encourage, hire, command, induce, or otherwise procure another person to enter, any house, room, apartment, warehouse, barn or other building, and/or act in furtherance of a conspiracy, such that he is liable for the acts of his co-conspirator(s) to enter, any house, room, apartment, warehouse, barn or other building, with the intent to commit grand or petit larceny, or any felony therein, and said defendant had in his possession or gained possession of any firearm or deadly weapon at any time before leaving the structure or upon leaving the structure, to-wit: the defendant drove "AG" DOB 11/06/03 to the residence located at 1340 Bishop Circle in Gardnerville and/or entered the same residence to commit grand or petit larceny, and had in his possession or did gain possession of a Spikes Tactical AR-15 rifle and/or Single Shot Pellet Rifle,

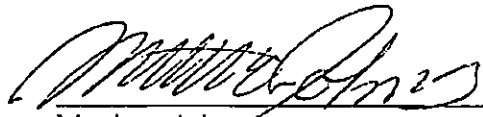
**COUNT FOUR: PRINCIPAL TO GRAND LARCENY OF A  
FIREARM, a violation of NRS 205.226, NRS  
195.020 a category B felony**

did willfully and unlawfully and intentionally, steal, take and carry away a firearm owned by another person, and/or whether present or absent aid, abet, counsel, encourage, hire, command, induce, or otherwise procure another person to steal, take and carry away a firearm owned by another person, and/or act in furtherance of a conspiracy, such that he is liable for the acts of his co-conspirator(s) to steal, take and carry away a firearm owned by another person, to-wit: the defendant and/or "AG" DOB 11/06/03 took a Spikes Tactical AR-15 rifle and/or Single Shot Pellet Rifle after defendant drove "AG" to the residence located at 1340 Bishop Circle in Gardnerville,

**COUNT FIVE: PRINCIPAL TO POSSESSION OF STOLEN  
PROPERTY, a violation of NRS 205.275, NRS  
195.020 a category C felony**

did willfully, unlawfully, and knowingly, possess, buy, receive, or withhold stolen property, and/or whether present or absent aid, abet, counsel, encourage, hire, command, induce, or otherwise procure another person to possess, buy, receive, or withhold the stolen property and/or act in furtherance of a conspiracy, such that he is liable for the acts of his co-conspirator(s), to possess, buy, receive, or withhold the stolen property, for the their own gain or to prevent the true owner(s) from again possessing the property, knowing that such property was stolen, or under such circumstances as should have caused a reasonable person to know that such goods were so obtained, said property having a value of \$650.00 or more, to-wit: Michael Louis Cota possessed, received, or withheld a Spikes Tactical AR-15 rifle and/or Single Shot Pellet Rifle and/or two Glock .40 caliber magazines, and/or an ammunition can containing various caliber ammunition, and/or a black "Combat Style" fixed blade knife; and/or arranged for a male named Oscar, also known as "Cheespa," and/or "AG" DOB 11/06/03, and/or Robert Donald Brown to possess, buy, receive, or withhold a Spikes Tactical AR-15 rifle and/or Single Shot Pellet Rifle.

against the peace and dignity of the State of Nevada. Complainant prays the defendant be dealt with according to law.

  
Matthew Johnson  
Deputy District Attorney

1 The following are the names of such witnesses as are known to me at the time of filing the  
2 within information:

3  
4 Deputy Justin Fricke Douglas County Sheriff's Office  
5 1038 Buckeye Road  
6 Minden, Nevada 89423

7 Investigator Nadine Chrzanowski Douglas County Sheriff's Office  
8 1038 Buckeye Road  
9 Minden, Nevada 89423

10 Deputy Christopher Carson Douglas County Sheriff's Office  
11 1038 Buckeye Road  
12 Minden, Nevada 89423

13 Deputy Zack Hickman Douglas County Sheriff's Office  
14 1038 Buckeye Road  
15 Minden, Nevada 89423

16 Deputy Mariah West Douglas County Sheriff's Office,  
17 1038 Buckeye Road  
18 Minden, Nevada 89423

19 Jonathan Cody Wulfgar Hanks 1340 Bishops Circle  
20 Gardnerville, Nevada 89410

21 Jason Ray Dillishaw 1420 Bumblebee Drive  
22 Gardnerville, Nevada 89460

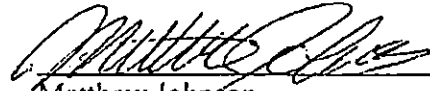
23 Alexis Ariana Haynes 1340 Bishops Circle  
24 Gardnerville, Nevada 89410

25 Aidan Jason Gordon 1358 Kingslane  
26 Gardnerville, Nevada 89410

27 Investigator Ryan Young Douglas County Sheriff's Office  
28 1038 Buckeye Road  
Minden, Nevada 89423

Robert Donald Brown

931 Sweetwater Drive  
Gardnerville, Nevada 89460



Matthew Johnson  
Deputy District Attorney

Douglas County District Attorney  
Post Office Box 218  
Minden, Nevada 89423  
(775) 782-9800 Fax (775) 782-9807

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Douglas County  
District Court Clerk

RODNEY R. WILLIAMS  
CLERK

BY ANOMALY

Case No. 18-CR-0084

Dept. No. II

DA Case No. 18-0675M

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

vs.

**GUILTY PLEA AGREEMENT**

MICHAEL LUIS COTA,

Defendant.

I hereby agree to plead guilty to Count Four: PRINCIPAL TO GRAND LARCENY OF A FIREARM, a violation of a NRS 205.226, NRS 195.020, a category B felony, as more fully alleged in the Information which I have read and reviewed with my attorney.

My decision to plead guilty is based upon the plea agreement in this case which is as follows: In exchange for my plea of guilty to Count Four in the Information, charging PRINCIPAL TO GRAND LARCENY OF A FIREARM, a violation of a NRS 205.226, NRS 195.020, a category B felony, my agreement to testify truthfully in any Preliminary Hearing or Trial set in 18-CR-0430, involving Robert Donald Brown, and my agreement to not have any contact or communication with Brittany Massera or Deanna Joan McVay during the period I am incarcerated, on parole, or on probation as a result of my conviction for this offense unless contact or communication is permitted by the district court for the purposes of establishing and/or facilitating custody/visitation with our child(ren) in common, the State has agreed to, dismiss the remaining counts in the Information, not file charges in Douglas County Sheriff's Office case number 18SO08450, in which I am alleged to have threatened violence against Skyler Reese-Bamford, Brittany Massera, and Deanna Joan McVay, and recommend that I be



1 sentenced to a minimum term of not less than 12 months in state prison and a maximum term of  
2 60 months in state prison. I understand that, at the time of sentencing, the parties are free to  
3 present arguments, facts, and/or witnesses about whether a lesser sentence, probation, and/or  
4 some other substance abuse treatment is appropriate to the extent I am eligible.

5 I understand that the State also reserves the right at sentencing to provide the court with  
6 relevant information that may not be in the court's possession; to call victims to make a victim  
7 impact statement; to question my character witnesses; to comment on the circumstances of the  
8 crime and my criminal history; and to correct factual misstatements made by me or my  
9 character witnesses.

#### 10 CONSEQUENCES OF THE PLEA

11 I understand that, by pleading guilty, I admit the facts which support all the elements of  
12 the offense to which I now plead as more fully alleged in the Information, a copy of which I  
13 have received and the contents of which I have reviewed with my attorney. I admit that the  
14 State possesses sufficient evidence which would result in my conviction.

15 I understand that, as a consequence of my plea of guilty, I may be imprisoned in the  
16 state prison for a minimum term of not less than 12 months and a maximum term of not more  
17 than 120 months. I also understand that I may be fined up to \$10,000. I understand that the  
18 law requires me to pay an administrative assessment fee.

19 I understand that, if appropriate, I will be ordered to make restitution to the victim of the  
20 offense to which I am pleading guilty and to the victim of any related offenses which are being  
21 dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the  
22 State of Nevada for expenses related to my extradition, if any.

23 I understand that I am eligible for probation for the offense to which I am pleading  
24 guilty. I understand that, except as otherwise provided by statute, the question of whether I  
25 receive probation is in the discretion of the sentencing judge.

26 I understand that, except as otherwise provided by statute, if more than one sentence of  
27 imprisonment is imposed, the sentencing judge has the discretion to order the sentences to be  
28 served concurrently or consecutively. My attorney has explained the terms concurrent and

1 consecutive and I understand their meaning as it relates to sentencing.

2 I understand that this plea and resulting conviction may have adverse effects upon my  
3 residency in this country if I am not a United States citizen.

4 I understand and agree that the State, at its discretion, is entitled to either withdraw from  
5 this agreement and proceed with the prosecution of the original offenses or be free to argue for  
6 an appropriate sentence at the time of the sentencing hearing if I: (1) fail to appear at any  
7 scheduled court proceeding in this matter; (2) am arrested for a violation of law in any  
8 jurisdiction prior to my sentencing hearing; (3) violate any of my bail conditions; (4) fail to  
9 cooperate fully with the Division of Parole and Probation in the preparation of the presentence  
10 investigation report in this case if said report is ordered by the court; or (5) fail to comply with  
11 any other condition stated herein. I understand and agree that the occurrence of any of these  
12 acts constitutes a material breach of my guilty plea agreement with the State. I further agree to  
13 waive any right I may have to remand this matter to Justice Court should this agreement be set  
14 aside for any reason.

15 I understand that information regarding offenses not filed, dismissed offenses or  
16 offenses to be dismissed pursuant to this agreement may be considered by the judge at  
17 sentencing.

18 I have not been promised or guaranteed any particular sentence by anyone. I know that  
19 my sentence is to be determined by the court within the limits prescribed by statute. I  
20 understand that if my attorney, the State of Nevada, or both recommend any specific  
21 punishment to the court, the court is not obligated to accept the recommendation.

22 I understand that the Division of Parole and Probation of the Department of Public  
23 Safety may or will prepare a report for the sentencing judge before sentencing. This report will  
24 include matters relevant to the issue of sentencing, including my criminal history. I understand  
25 that this report may contain hearsay information regarding my criminal history and the facts  
26 and circumstances related to the offense. My attorney and I will each have the opportunity to  
27 comment on the information contained in the report at the time of sentencing.

28

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I have waived the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial, the State would bear the burden of proving beyond a reasonable doubt each element of the offense charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

I have discussed the elements of all the original offenses against me with my attorney and I understand the nature of these offenses against me.

I understand that the State would have to prove each element of the offenses against me at trial.

I have discussed with my attorney any possible defenses and circumstances which might be in my favor.

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

I believe that pleading guilty and accepting this plea bargain is in my best interest and

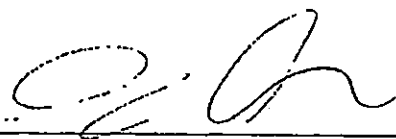
1 that a trial would be contrary to my best interest.

2 I am signing this agreement voluntarily, after consultation with my attorney, and I am  
3 not acting under duress or coercion or by virtue of any promises of leniency, except for those  
4 set forth in this agreement.


5 I am not now under the influence of intoxicating liquor, a controlled substance or other  
6 drug which would in any manner impair my ability to comprehend or understand this  
7 agreement or the proceedings surrounding my entry of this plea.

8 My attorney has answered all my questions regarding this guilty plea agreement and its  
9 consequences to my satisfaction, and I am satisfied with the services provided by my attorney.

10 Dated this 1 day of June, 2018.

11  
12   
13 MICHAEL LUIS COTA  
14 Defendant

15 Agreed to this 30 day of May, 2018.

16  
17   
18 MATTHEW JOHNSON  
19 Deputy District Attorney

20 CERTIFICATE OF COUNSEL

21 I, the undersigned, as the attorney for the defendant named herein and as an officer of  
22 the court hereby certify:

23 1. I have fully explained to the defendant the allegations contained in the charges to  
24 which guilty or guilty but mentally ill pleas are being entered.

25 2. I have advised the defendant of the penalties for each charge and the restitution that  
26 the defendant may be ordered to pay.

27 3. All pleas of guilty or guilty but mentally ill offered by the defendant pursuant to this  
28 agreement are consistent with all the facts known to me and are made with my advice to the  
defendant and are in the best interest of the defendant.

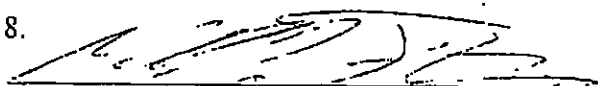
1 4. To the best of my knowledge and belief, the defendant:

2 a. Is competent and understands the charges and the consequences of pleading  
3 guilty or guilty but mentally ill as provided in this agreement.

4 b. Executed this agreement and will enter all guilty or guilty but mentally ill  
5 pleas pursuant hereto voluntarily.

6 c. Was not under the influence of intoxicating liquor, a controlled substance or  
7 other drug at the time of the execution of this agreement.

8 Dated this 1 day of June, 2018.

9   
10 MATTHEW ENCE, ESQ.  
11 Attorney for Defendant  
12  
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FILED

1 Case No. 18-CR-0084

2 Dept. No. II

RECEIVED

OCT 10 2018

Douglas County  
District Court Clerk

2018 OCT 10 AM 11:54

BOBBIE R. WILLIAMS  
CLERK

BY WJL DPY

3  
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5  
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF DOUGLAS

8  
9 THE STATE OF NEVADA,  
10 Plaintiff,

11 vs.

JUDGMENT OF CONVICTION

12 MICHAEL LUIS COTA,  
13 Defendant.

14  
15 On the 9<sup>th</sup> day of July, 2018, Defendant entered a plea of  
16 guilty to the following offense contained within the Information:  
17 Count IV: PRINCIPAL TO GRAND LARCENY OF A FIREARM, a violation of  
18 NRS 205.226, NRS 195.020, a category B felony.

19 On the 8<sup>th</sup> day of October, 2018, Defendant appeared for  
20 sentencing. Finding no legal cause why judgment should not be  
21 pronounced, judgment was rendered as follows: Count IV: PRINCIPAL  
22 TO GRAND LARCENY OF A FIREARM, a violation of NRS 205.226, NRS  
23 195.020, a category B felony, imprisonment in the state prison for  
24 a maximum term of seventy-two (72) months and a minimum term of  
25 sixteen (16) months and ordered the Defendant to be joint and  
26 severally liable with Robert Donald Brown for restitution in the  
27 amount of nine hundred sixty-nine dollars and eighteen cents  
28 (\$969.18). Defendant is granted one hundred sixty-one (161) days

1 credit for time served.

2 Defendant shall pay statutory fees and assessments of \$25.00  
3 (NRS 176.062), \$3.00 (NRS 176.0623), and \$150.00 (NRS 176.0915).

4 Defendant shall appear on the first Monday following his  
5 release from incarceration at 9:00 a.m. to arrange a payment  
6 schedule for all Court ordered fees and restitution.

7 This judgment constitutes a lien in like manner as a judgment  
8 rendered in a civil action. NRS 176.275.


9 DATED this 10<sup>th</sup> day of October, 2018.

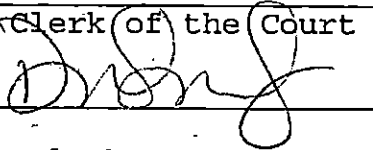
10  
11   
12 THOMAS W. GREGORY  
13 DISTRICT JUDGE  
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1 STATE OF NEVADA )  
2 ) SS  
3 COUNTY OF DOUGLAS )

4 I, BOBBIE R. WILLIAMS, Clerk of the Court of Douglas  
5 County, State of Nevada, and ex-officio Clerk of the District  
6 Court, Ninth Judicial District of the State of Nevada, in and  
7 for the said County of Douglas; said Court being a Court of  
8 Record, having common law jurisdiction, and a Clerk and a Seal,  
9 do hereby certify that the attached are true copies of the  
10 following originals in Case No. 18-CR-0084 (THE STATE OF NEVADA  
11 V. MICHAEL LUIS COTA) Information, Guilty Plea Agreement and  
12 Judgment of Conviction.

13  
14 IN TESTIMONY WHEREOF, I have hereunto  
15 set my hand and affixed my Official  
16 Seal at Minden, in said County and  
17 State this 13<sup>th</sup> day of September, 2021  
18

19   
20 Bobbie Williams, Clerk of the Court

21 By:   
22 Deputy Court Clerk  
23  
24  
25  
26  
27  
28



1 Case No. 18-CR-00084B

2 Dept No. II

3 DA 18-1274M

4 This document does not contain personal information of any person

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF DOUGLAS

7  
8 THE STATE OF NEVADA,

9 Plaintiff,

10 v.

**CERTIFICATE OF SERVICE**

11 MICHAEL LUIS COTA, JR.,

12 Defendant.

13  
14 Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for  
15 Douglas County, Nevada, and that I deposited for delivery a true copy of the Answer to  
16 Petition for Writ of Habeas Corpus (Post Conviction) and Return (Post-Conviction Petition for  
17 Writ of Habeas Corpus).

18 addressed to:

19 Michael Luis Cota, Jr. NDOC #1206075  
20 Ely State Prison  
21 P.O. Box 1989  
Ely, Nevada 89301


22 ☒ U.S. Mail

23 ☐ Reno/Carson Messenger

24 ☐ Hand Delivery

25 ☐ By placing a copy in the pick-up folder in the District Attorney's Office.

26 DATED this 15<sup>th</sup> day of September, 2021.

27 

28 670

**RECEIVED**

**SEP 20 2021**

Douglas County  
District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

**FILED**

**2021 SEP 20 AM 10:26**

**MICHAEL LUIS COTA,**  
Petitioner,

vs.

**THE NINTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF DOUGLAS,**

Respondent,

and

**THE STATE OF NEVADA,**  
Real Party in Interest.

**Supreme Court No. 83521**  
District Court Case No. 18-CR-0084; 18-CR-

0116

BY

DEPUTY

**RECEIPT FOR DOCUMENTS**

**TO: Michael Luis Cota**  
**Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney**  
**Bobbie W. Williams, Douglas County Clerk**

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

09/17/2021      Petition Filing Fee waived. Criminal. (SC)

09/17/2021      Filed Proper Person Petition for Writ of Mandamus. (Exhibits  
attached) (SC)

**DATE: September 17, 2021**

**Elizabeth A. Brown, Clerk of Court**  
lh

RECEIVED

SEP 23 2021

MEMORANDUM OF POINTS AND AUTHORITIES

Douglas County  
District Court Clerk

NINTH JUDICIAL DISTRICT COURT

DOUGLAS COUNTY NEVADA

FILED  
2021 SEP 23 10:06

DOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

MICHAEL COTA

CASE NO:

Plaintiff

18-CR-0084

VS

18-CR-0116

STATE OF NEVADA

18-CR-00084B

Respondent

18-CR-00116B

MOTION FOR ORDER FOR Complete Docket Sheet

MR COTAS REQUESTS TO THE CLERK OF COURTS  
FOR THESE DOCKET SHEETS HAVE BEEN IGNORED.  
MR COTA NEEDS These Docket Sheets FOR  
FEDERAL LITIGATION. IN ADDITION MR COTA WAS  
ONLY AWARE OF CASES 18-CR-0084 AND 18-CR-0116  
THE OTHER TWO CASE NUMBERS ARE A MYSTERY AND  
NEED TO BE IMMEDIATELY RESEARCHED.

DATED THIS 21<sup>ST</sup> DAY OF September 2021

X 

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 21<sup>st</sup> day of September, 2021.

Michael Cota  
MICHAEL COTA #1206075  
ELY STATE PRISON  
P.O. BOX 1989  
Ely, NV. 89301  
Plaintiff In Pro Se

1 Case No. 2018-CR-00084/00084B/00116/00116B

FILED

2 Dept. No. II

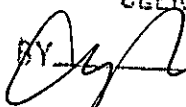
RECEIVED

2021 OCT 15 AM 10:29

OCT 15 2021

BOBBIE R. WILLIAMS  
CLERK

Douglas County  
District Court Clerk

BY  DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

ORDER REGARDING MOTION FOR  
COMPLETE DOCKET SHEET

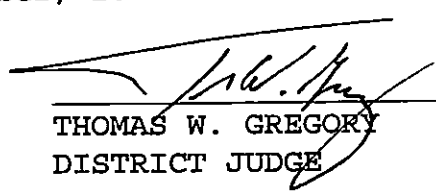
12 MICHAEL LUIS COTA,

13 Defendant.

14  
15 THIS MATTER comes before the Court on Defendant's Motion for  
16 Complete Docket Sheet filed on September 23, 2021. Good cause  
17 appearing, the Clerk of the Court shall provide Defendant with the  
18 complete docket sheet for each case.

19 IT IS SO ORDERED.

20 DATED this 14<sup>th</sup> day of October, 2021.

21  
22   
23 THOMAS W. GREGORY  
24 DISTRICT JUDGE  
25  
26  
27  
28

1 Copies served by mail/hand delivered on October 15<sup>th</sup>, 2021,  
2 addressed to:

3 Douglas County District Attorney's Office (Hand Delivery)  
4 1038 Buckeye Road  
5 Minden, Nevada 89423

6 Michael Cota (Mail)  
7 #1206075  
8 Ely State Prison  
9 P.O. Box 1989  
10 Ely, Nevada 89301

11 Office of the Attorney General (Mail)  
12 100 N. Carson Street  
13 Carson City, Nevada 89701

14 Erin C. Plante  
15 Erin C. Plante  
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Case No. 2018-CR-00084B

RECEIVED

FILED

Dept. No. II

OCT 15 2021

2021 OCT 15 AM 10:30

Douglas County  
District Court Clerk

BOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

WARDEN, Nevada Department of  
Corrections,

Respondent.

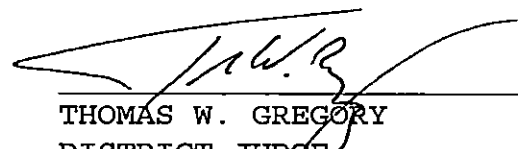
ORDER DENYING POST CONVICTION  
PETITION REQUESTING GENETIC  
MARKER ANALYSIS

THIS MATTER comes before the Court on Defendant's Post Conviction Petition Requesting a Genetic Marker Analysis of Evidence within the Possession or Custody of the State of Nevada filed on August 26, 2021. Defendant did not serve the State and/or file a certificate of service. NRS 176.0918.

Defendant's Post Conviction Petition Requesting a Genetic Marker Analysis of Evidence within the Possession or Custody of the State of Nevada is DENIED.

IT IS SO ORDERED.

DATED this 14<sup>th</sup> day of October, 2021.

  
THOMAS W. GREGORY  
DISTRICT JUDGE

1 Copies served by mail/hand delivery on October 15<sup>th</sup>, 2021,  
2 addressed to:

3 Michael Cota (Mail)

4 #1206075

5 Ely State Prison

6 P.O. Box 1989

7 Ely, Nevada 89301

8 Douglas County District Attorney's Office (Hand Delivery)

9 1038 Buckeye Road

10 Minden, Nevada 89423

11 Office of the Attorney General (Mail)

12 100 N. Carson Street

13 Carson City, Nevada 89701

14 Erin C. Plante  
15 Erin C. Plante

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RECEIVED

OCT 15 2021

Douglas County  
District Court Clerk

FILED

2021 OCT 15 PM 4:25

DOUGLASS WILLIAMS

CLERK

*[Signature]*  
DEPUTY

SUPREME COURT  
STATE OF NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, NINTH JUDICIAL DISTRICT  
COURT

Defendant(s).

CASE NO. 2018 CR 00084 BD

To Be Supplied By Clerk

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a WRIT OF HABEAS CORPUS BE ISSUED  
AGAINST NINTH JUDICIAL DISTRICT COURT TO FORCE THEM TO  
ADJUDICATE LEGALLY FILED MOTIONS.

The above is made and based on the following Memorandum of Points and Authorities.

## B. NATURE OF THE CASE

Briefly state, in numbered paragraphs, the background facts of your case (you may attach additional pages, in necessary) :

MR COTA WAS SENTENCED IN DOUGLAS COUNTY IN 2018. MR COTA HAS LEGALLY FILED SEVERAL MOTIONS WITH THE COURT INCLUDING MOTION FOR SENTENCE MODIFICATION, PETITION FOR WRIT OF HABEAS CORPUS, PETITION FOR GENETIC MARKER ANALYSIS, MOTION TO ORDER Counsel to PRODUCE ALL CASE RECORDS AND OTHERS. WE SHALL PROVE BY EXHIBITS THAT THE COURT REFUSES TO ADJUDICATE LEGALLY FILED MOTIONS. EXHIBIT 1 IS A STATE CIVIL RIGHTS COMPLAINT RECEIVED BY THE COURT ON AUGUST 9, 2021, IT HAS NEVER BEEN EVEN ASSIGNED A CASE #. EXHIBIT 2 IS A LETTER FROM CLERK OF COURTS ADVISING MR COTA TO FILE INFORMA PAPERS WHICH HE DID ON 8-12-21. THAT WAS THE LAST COMMUNICATION. EXHIBIT 3, DATED 8-12-21 SHOWS MR COTAS ORDER TO SERVE DEFENDANTS ON PETITION FOR WRIT OF HABEAS CORPUS, WHICH HE COMPLIED WITH ON 8/17/21 THEN NO FURTHER COMMUNICATION. EXHIBIT 4 IS IDENTICAL TO EXHIBIT 3 EXCEPT THAT IT COVERS MR COTAS 2ND CASE. SERVICE TO DEFENDANTS WAS DONE ON 8/17/21. EXHIBITS 5+6 ARE FILE STAMPED MOTIONS FOR SENTENCE MODIFICATION FILED 7/28/21 YET NO ADJUDICATION. MR COTA FILED PETITION FOR GENETIC MARKER ANALYSIS ON 8/23/21 BUT TO DATE HAS RECEIVED NO REPLY FROM COURT.

1 MR COTA HAS ALSO FILED ON 8/23/21 A MOTION  
2 TO COMPEL FORMER COUNSEL TO PRODUCE CASE  
3 RECORDS, TO DATE NO REPLY! MR COTA HAS  
4 A CONSTITUTIONAL RIGHT TO ADDRESS THE COURT  
5 THIS IS BEING DENIED. THE NINTH JUDICIAL DISTRICT  
6 COURT REFUSES TO EVEN SUPPLY A CASE # ON  
7 A CIVIL RIGHTS ACTION AGAINST THEM.  
8 A WRIT OF MANDAMUS MUST BE ISSUED TO COMPEL  
9 THE COURT TO PERFORM THEIR LEGAL DUTIES.  
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24 Dated this 17th day of October, 2021

25  
26 By: Mr Cota  
27  
28

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein  
and that on this 7<sup>th</sup> day of October, 2021, I mailed a true and correct copy of this  
foregoing PETITION FOR WRIT OF HABEAS CORPUS to the following:

DOUGLAS COUNTY DISTRICT ATTORNEY  
P.O. Box 218  
MINDEN, NV 89423

BY: MA [Signature]

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

PETITION FOR WRIT OF HABEAS CORPUS

(Title of Document)

Filed in case number: To be Supplied

☒ Document does not contain the social security number of any person

Or

☐ Document contains the social security number of a person as required by:

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 10-7-21

[Signature]  
(Signature)

MICHAEL COTA  
(Print Name)

DROSE  
(Attorney for)

EXHIBIT 1

EXHIBIT 1

RECEIVED

Case No. \_\_\_\_\_  
Dept. No. \_\_\_\_\_

AUG 09 2021

Douglas County  
District Court Clerk

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA

Plaintiff,

STATE CIVIL RIGHTS COMPLAINT

vs.  
JOHN MALONE  
THOMAS M. GREGORY  
DOUGLAS CO. DISTRICT ATTORNEY  
Defendant.

Comes now Plaintiff, and for his cause of action, complains of Defendants, and each of them as follows:

A. JURISDICTION

1) This complaint alleges that the civil rights of Plaintiff, MICHAEL COTA, who presently resides at Ely State Prison, White Pine County, Ely, Nevada, were violated by the actions of the below-named individuals, which were directed against Plaintiff at (Institution where violations occurred) DOUGLAS COUNTY JAIL, on the following dates: Count I: 10-8-18  
Count II: CONTINUES, Count III: \_\_\_\_\_, (List additional counts and dates, if applicable): \_\_\_\_\_

2) Defendant (Full Name): JOHN MALONE, resides at (Full Address): 1662 U.S. Hwy 395  
P.O. Box 218 MINDEN, NV 89423, and is employed as (Title and Position; if any): COUNSEL. This defendant is sued in his/her (check one or both): X Individual X Official capacity: Explain how this defendant was acting under color of law: PARTICIPATED IN A PLAN TO VIOLATE NRS 62H.030(2)  
WHICH VIOLATED DUE PROCESS LAW

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685

EXHIBIT 2

EXHIBIT 2





EXHIBIT 3

EXHIBIT 3

687

7-30-37

Case No. 2018-CR-00084B

RECEIVED

Dept. No. II

AUG 12 2021

2021 AUG 12 PM 8:52

Douglas County  
District Court Clerk

BOB L. R. WILLIAMS  
CLERK

K. WILFERT DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

ORDER

WARDEN, Nevada Department of  
Corrections,

Respondent.

Petitioner filed a *Petition for Writ of Habeas Corpus (Post-Conviction)* on August 9, 2021. The Petition has not been served on the Attorney General or the District Attorney. NRS 34.730. Petitioner shall, no later than September 12, 2021, serve the Attorney General and the District Attorney with conformed copies of the *Petition* and file proof of service with the Court. Failure to comply will result in dismissal of the *Petition*.

The State shall, within 45 days of service of the *Petition*, respond to the *Petition* and file a return in accordance with the

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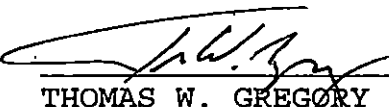
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///

1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a  
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12<sup>th</sup> day of August, 2021.

5  
6   
7 THOMAS W. GREGORY  
8 DISTRICT JUDGE  
9

10 Copies served by mail/hand delivery on August 12<sup>th</sup>, 2021,  
11 addressed to:

12 Michael Cota (Mail)

13 #1206075

14 Ely State Prison

15 P.O. Box 1989

16 Ely, Nevada 89301

17 Douglas County District Attorney's Office (Hand Delivery)

18 1038 Buckeye Road

19 Minden, Nevada 89423

20 Office of the Attorney General (Mail)

21 100 N. Carson Street

22 Carson City, Nevada 898701

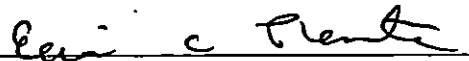
23  
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25 Erin C. Plante  
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EXHIBIT 4

EXHIBIT 4

690

RECEIVED

AUG 12 2021

Case No. 2018-CR-00116B

Dept. No. II

Douglas County  
District Court Clerk

2021 AUG 12 AM 8:52

DOLLY WILLIAMS  
CLERK

KR WILFERT DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

ORDER

WARDEN, Nevada Department of  
Corrections,

Respondent.

Petitioner filed a *Petition for Writ of Habeas Corpus (Post-Conviction)* on August 9, 2021. The Petition has not been served on the Attorney General or the District Attorney. NRS 34.730. Petitioner shall, no later than September 12, 2021, serve the Attorney General and the District Attorney with conformed copies of the *Petition* and file proof of service with the Court. Failure to comply will result in dismissal of the *Petition*.

The State shall, within 45 days of service of the *Petition*, respond to the *Petition* and file a return in accordance with the

///

///

///

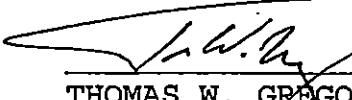
///

///

1 provisions of NRS 34.360 to 34.830, inclusive, and/or file a  
2 motion to dismiss.

3 IT IS SO ORDERED.

4 DATED this 12<sup>th</sup> day of August, 2021.

5  
6   
7 THOMAS W. GREGORY  
8 DISTRICT JUDGE  
9

10 Copies served by mail/hand delivery on August 12<sup>th</sup>, 2021,  
11 addressed to:

12 Michael Cota (Mail)  
13 #1206075

14 Ely State Prison  
15 P.O. Box 1989  
16 Ely, Nevada 89301

17 Douglas County District Attorney's Office (Hand Delivery)  
18 1038 Buckeye Road  
19 Minden, Nevada 89423

20 Office of the Attorney General (Mail)  
21 100 N. Carson Street  
22 Carson City, Nevada 898701

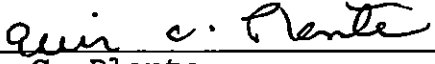
23   
24 Erin C. Plante  
25  
26  
27  
28

EXHIBIT 5

EXHIBIT 5

693



RECEIVED

JUL 28 2021

Douglas County  
District Court Clerk

2021 JUL 28 AM 10:14

DAVID J. WILLIAMS

CLERK OF DISTRICT COURT

9th JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0116 ✓

18-CR-0084

MOTION FOR MODIFICATION OF SENTENCE

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a ORDER TO MODIFY THE SENTENCES  
IMPOSED ON OCTOBER 8, 2018.

The above is made and based on the following Memorandum of Points and Authorities.

EXHIBIT 6

EXHIBIT 6

RECEIVED

JUL 28 2021

Douglas County  
District Court Clerk

2021 JUL 28 AM 10:14

BECK WILLIAMS  
CLERK

BY [Signature] DEPUTY

9th JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

NAME, MICHAEL COTA

Plaintiff(s),

-vs-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0116

18-CR-0084 ✓

## MOTION FOR MODIFICATION OF SENTENCE

COMES NOW, PLAINTIFF, in PRO PER and herein above respectfully

Moves this Honorable Court for a ORDER TO MODIFY THE SENTENCES  
IMPOSED ON OCTOBER 8, 2018.

The above is made and based on the following Memorandum of Points and Authorities.

RECEIVED

OCT 18 2021

Douglas County  
District Court Clerk

FILED

2018 CR 000841B D

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

No. 83521

MICHAEL LUIS COTA,  
Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
DOUGLAS,  
Respondent,

and

THE STATE OF NEVADA,  
Real Party in Interest.

FILED

OCT 14 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**ORDER DENYING PETITION**

This is an original pro se petition for a writ of mandamus in which petitioner appears to complain that he was deprived of his right to appeal his conviction because that appeal was "entitled in the wrong county."

Having considered the petition, we are not persuaded that our extraordinary intervention is warranted because an appeal from the judgment of conviction constitutes a plain, speedy, and adequate remedy precluding writ relief. *See* NRS 34.170; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (explaining that a writ of mandamus is proper only when there is no plain, speedy, and adequate remedy at law, that an appeal is generally an adequate remedy precluding writ relief, and that petitioner bears the burden of demonstrating that writ relief is warranted). The Nevada court of appeals order affirming petitioner's judgment of conviction correctly listed the Ninth Judicial District Court and the Honorable Thomas W. Gregory in the jurisdictional statement. *Cota v. State*, Docket Nos. 77414-COA and 77415-COA (Order

697

21-29570

of Affirmance, Ct. App., March 19, 2020). Therefore, petitioner was not deprived of his right to appeal, nor was that appeal "entitled in the wrong county." Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

*Hardesty*, C.J.  
Hardesty

*Parraguirre* J.  
Parraguirre

*Stiglich* J.  
Stiglich

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

---

<sup>1</sup>Given this disposition, any further requests by petitioner are denied as moot.

Case No. 2018-CR-00084B/00116B

Dept. No. II

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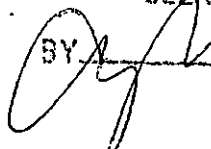
OCT 19 2021

FILED

2021 OCT 19 AM 8:32

Douglas County  
District Court Clerk

BOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS  
(POST-CONVICTION)

WARDEN, Nevada Department of  
Corrections,

Respondent.

THIS MATTER comes before the Court on Petitioner's *Petition for Writ of Habeas Corpus (Post-Conviction)*. Good cause appearing, the *Petition* is dismissed on procedural grounds and substantive grounds.

Procedural Background

Petitioner entered a guilty plea and was sentenced. *Judgment of Conviction* entered on October 10, 2018. Defendant direct appealed. Following an *Order of Affirmance, Remittitur* issued on April 17 2020.

Petitioner filed the pending *Petition for Writ of Habeas Corpus (Post-Conviction)* on August 9, 2021, raising two grounds for relief: due process and equal protection.

The State timely filed an *Answer to Petition for Writ of Habeas Corpus (Post-Conviction)* and Return. Order, August 12,

1 2021. The State requests dismissal on procedural and substantive  
2 grounds.

3 Petitioner did not respond to the States' request to dismiss  
4 on procedural grounds. NRS 34.750(4).

5 Analysis

6 Although Petitioner has not requested the appointment of  
7 counsel, the Court has considered whether to appoint counsel.  
8 Given obvious procedural deficiencies, the relative non-complexity  
9 of the issues, Petitioner's ability to understand and the lack of  
10 any need for discovery, the Court declines to appoint counsel.  
11 NRS 34.750.

12 The Answer accurately state's the law and the procedural  
13 history in all respects. The Court agrees with the State in all  
14 respects as set forth more specifically below.

15 The Petition is untimely. NRS 34.726(1). Petitioner does  
16 not provide any cause for the untimely filing. *Id.* Petitioner  
17 does not argue that there will be a fundamental miscarriage of  
18 justice unless procedural bars are excused. *Pellegrini v. State*,  
19 117 Nev. 860, 887 (2001); *State v. Eight Judicial Dist. Court*  
20 (*Riker*), 121 Nev. 225, 231 (2005). Due to the procedural bar, an  
21 evidentiary hearing is not required and Petitioner is not entitled  
22 to relief. NRS 34.770(2).

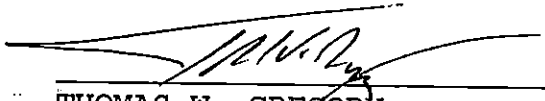
23 Irrespective, Petitioner's two grounds for relief are not  
24 properly before the Court, NRS 34.810, and are not supported by  
25 specific factual allegations not belied by the record, that, if  
26 true, would entitled him to relief. *Mann v. State*, 118 Nev. 351,  
27 353 (2002). The Petition bears denial, without an evidentiary  
28 hearing, on these grounds as well. NRS 34.770(2).

1 Irrespective, Petitioner's claims lack merit. NRS 176.015;  
2 McCleskey v. Kemp, 481 U.S. 279, 292 (1987).

3 Petitioner's Petition for Writ of Habeas Corpus (Post-  
4 Conviction) is dismissed on procedural and substantive grounds.

5 IT IS SO ORDERED.

6 DATED this 18<sup>th</sup> day of October, 2021.

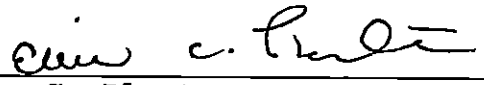
7  
8   
9 THOMAS W. GREGORY  
DISTRICT JUDGE

10  
11  
12 Copies served by mail/hand delivery on October 19<sup>th</sup>, 2021,  
13 addressed to:

14 Michael Cota (Mail)  
15 #1206075  
16 Ely State Prison  
17 P.O. Box 1989  
18 Ely, Nevada 89301

19 Douglas County District Attorney's Office (Hand Delivery)  
20 1038 Buckeye Road  
21 Minden, Nevada 89423

22 Office of the Attorney General (Mail)  
23 100 N. Carson Street  
24 Carson City, Nevada 89701

25  
26   
27 Erin C. Plante  
28



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OCT 20 2021

Douglas County  
District Court Clerk

FILED

2021 OCT 20 PM 4:39

BOBBIE A. WILLIAMS  
CLERK

BY  DEPUTY

NINTH JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

NAME,  MICHAEL COTA

Plaintiff(s),

-VS-

NAME, STATE OF NEVADA

Defendant(s).

CASE NO.

18-CR-0084 ✓

18-CR-0116

NOTICE OF NON COMPLIANCE BY STATE  
OF NEVADA. REQUEST TO GRANT HABEAS.

COMES NOW MICHAEL COTA in PRO PER and herein above respectfully

Moves this Honorable Court for a Notice of Non Compliance by  
STATE OF NEVADA Concerning Court Order of August 12, 2021  
DIRECTING STATE TO Respond to MR COTA'S Petition for  
WRIT OF HABEAS CORPUS.

The above is made and based on the following Memorandum of Points and Authorities.

1 ON August 12, 2021 This Court ENTERED AN ORDER  
2 FIRST DIRECTING MR COTA TO SERVE UPON THE DOUGLAS  
3 COUNTY DISTRICT ATTORNEY AND THE NEVADA ATTORNEY  
4 GENERAL A COPY OF HIS PETITION FOR WRIT OF  
5 HABEAS CORPUS. MR COTA IMMEDIATELY COMPLIED  
6 AND SERVED BOTH PARTIES, SERVICE SENT US MAIL ON  
7 AUGUST 18, 2021, AND RECEIVED ON OR BEFORE AUGUST 24,  
8 2021. THE STATE WAS THEN ORDERED TO RESPOND TO MR  
9 COTA'S PETITION BY ~~SEPTEMBER~~ <sup>OCTOBER</sup> 8, 2021. THEY DID NOT COMPLY.  
10 IT IS NOW OCTOBER 18, 2021 AND THE STATE, AS OF THIS  
11 DATE, HAS BEEN IN CONTEMPT OF THE ORDER FOR 10  
12 DAYS AS 55 DAYS HAVE PASSED. AS SUCH THE  
13 STATE OF NEVADA HAS STIPULATED TO THE SERIOUS  
14 FACTS CONTAINED IN MR COTA'S PETITION SINCE  
15 THE FACTS ARE NOT IN DISPUTE! MR COTA ASKS  
16 THAT HIS PETITION FOR WRIT OF HABEAS CORPUS  
17 BE IMMEDIATELY GRANTED, AND MR COTA'S  
18 RELEASE ORDERED.

19  
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22  
23  
24 Dated this 18<sup>TH</sup> day of OCTOBER, 2021

25  
26 By: MS Cota II

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 18<sup>th</sup> day of October, 20 21.

x M. Cota

MICHAEL COTA #1206075  
ELY STATE PRISON  
P.O. BOX 1989  
Ely, NV. 89301  
Plaintiff In Pro Se

RECEIVED

FILED

OCT 21 2021

2021 OCT 21 AM 10:26

Douglas County  
District Court Clerk

BOBBIE R. WILLIAMS  
CLERK

NINTH JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA  
DEPUTY

NAME, MICHAEL COTA

Plaintiff(s),

-VS-

CASE NO.

NAME, WARDEN, N.D.O.C  
STATE OF NEVADA  
Defendant(s).

2018-CR-00084B  
II

## NOTICE OF APPEAL

COMES NOW, MICHAEL COTA, in PRO PER and herein above respectfully

Moves this Honorable Court for a NOTICE OF APPEAL ON THIS COURTS  
DENIAL OF MR COTAS REQUEST FOR GENETIC  
MARKER ANALYSIS OF EVIDENCE IN CUSTODY  
OF STATE OF NEVADA.

The above is made and based on the following Memorandum of Points and Authorities.

1 THIS IS A RIDICULOUS APPEAL AS IT SHOWS THE  
2 CONFUSION CREATED BY THE NINTH JUDICIAL DISTRICT  
3 COURT. FIRST MR COTAS CASE NUMBER IS 18-CR-  
4 0084 NOT THE NUMBER LISTED ON THE DENIAL OF  
5 REQUEST. 2ND MR COTA LISTED THE STATE OF  
6 NEVADA AS RESPONDENT/DEFENDANT NOT WARDEN  
7 N.D.O.C. 3RD MR COTA DID SERVE THE STATE AND  
8 FILED PROOF OF SERVICE, AND LASTLY IT IS VERY  
9 STRANGE MR COTAS ~~DO~~ REQUEST WAS DENIED ON  
10 OCTOBER 14, 2021 WHEN IT WAS NOT RECEIVED  
11 UNTIL OCTOBER 15, 2021.  
12  
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24 Dated this 19<sup>th</sup> day of October, 2021  
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By: X Mr Cota

RECEIVED

FILED

Case No. 2018-CR-00084B

OCT 22 2021

2021 OCT 22 AM 8:56

Dept. No. II

Douglas County  
District Court Clerk

BOBBIE R. WILLIAMS  
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,  
Petitioner,

vs.

NOTICE OF ENTRY OF ORDER

WARDEN, Nevada Department of  
Corrections,

Respondent,

PLEASE TAKE NOTICE that on October 19, 2021, the Court  
entered Order in this matter, a true and correct copy of which is  
attached to this notice.

You may appeal to the appellate court of competent  
jurisdiction pursuant to the rules fixed by the Supreme Court from  
the decision or order of this court. If you wish to appeal, you  
must file a notice of appeal with the clerk of this Court within  
33 days after the date of this notice is mailed to you.

This notice was mailed on October 22, 2021.

  
CLERK OF COURT

By  DEPUTY

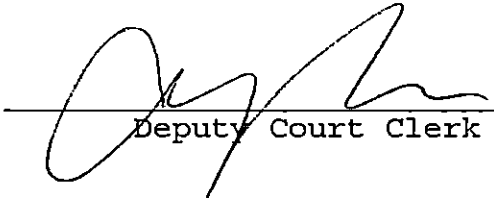
1 Copies served this 22<sup>nd</sup> day of October 2021 to:

2 Michael Cota  
3 #1206075  
4 Ely State Prison  
5 P.O. box 1989  
6 Ely, Nevada 89301

7 Douglas County District Attorney's Office  
8 1038 Buckeye Road  
9 Minden, Nevada 89423 (hand delivered)

10 Office of the Attorney General  
11 100 N. Carson Street  
12 Carson City, Nevada 89701

13 William Gittere (Warden)  
14 Nevada Department of Corrections  
15 Ely State Prison  
16 P.O. Box 1989  
17 4569 North State Route 490  
18 Ely, Nevada 89301

  
Deputy Court Clerk

Case No. 2018-CR-00084B

Dept. No. II

RECEIVED

OCT 22 2021

Douglas County  
District Court Clerk

FILED

2021 OCT 22 AM 9:26

BOBBIE R. WILLIAMS  
CLERK

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

AMENDED NOTICE OF ENTRY OF  
ORDER

WARDEN, Nevada Department of  
Corrections,

Respondent,

PLEASE TAKE NOTICE that on October 19, 2021, the Court entered Order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this Court within 33 days after the date of this notice is mailed to you.

This notice was mailed on October 22, 2021.

CLERK OF COURT

By

DEPUTY



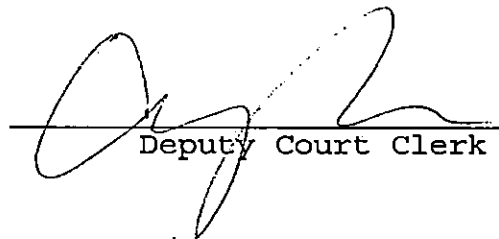
1 Copies served this 22<sup>nd</sup> day of October 2021 to:

2 Michael Cota  
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Deputy Court Clerk

Case No. 2018-CR-00084B/00116B

Dept. No. II

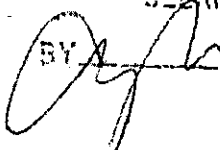
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OCT 19 2021

2021 OCT 19 AM 8:32

Douglas County  
District Court Clerk

BOULDER WILLIAMS  
CLERK

BY  DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

MICHAEL COTA,

Petitioner,

vs.

ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS  
(POST-CONVICTION)

WARDEN, Nevada Department of  
Corrections,

Respondent.

THIS MATTER comes before the Court on Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction). Good cause appearing, the Petition is dismissed on procedural grounds and substantive grounds.

Procedural Background

Petitioner entered a guilty plea and was sentenced. Judgment of Conviction entered on October 10, 2018. Defendant direct appealed. Following an Order of Affirmance, Remittitur issued on April 17 2020.

Petitioner filed the pending Petition for Writ of Habeas Corpus (Post-Conviction) on August 9, 2021, raising two grounds for relief: due process and equal protection.

The State timely filed an Answer to Petition for Writ of Habeas Corpus (Post-Conviction) and Return. Order, August 12,

1 2021. The State requests dismissal on procedural and substantive  
2 grounds.

3 Petitioner did not respond to the States' request to dismiss  
4 on procedural grounds. NRS 34.750(4).

5 Analysis

6 Although Petitioner has not requested the appointment of  
7 counsel, the Court has considered whether to appoint counsel.  
8 Given obvious procedural deficiencies, the relative non-complexity  
9 of the issues, Petitioner's ability to understand and the lack of  
10 any need for discovery, the Court declines to appoint counsel.  
11 NRS 34.750.

12 The Answer accurately state's the law and the procedural  
13 history in all respects. The Court agrees with the State in all  
14 respects as set forth more specifically below.

15 The Petition is untimely. NRS 34.726(1). Petitioner does  
16 not provide any cause for the untimely filing. *Id.* Petitioner  
17 does not argue that there will be a fundamental miscarriage of  
18 justice unless procedural bars are excused. *Pellegrini v. State*,  
19 117 Nev. 860, 887 (2001); *State v. Eight Judicial Dist. Court*  
20 (*Riker*), 121 Nev. 225, 231 (2005). Due to the procedural bar, an  
21 evidentiary hearing is not required and Petitioner is not entitled  
22 to relief. NRS 34.770(2).

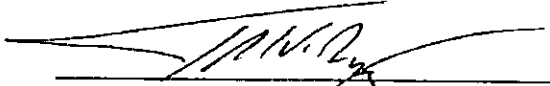
23 Irrespective, Petitioner's two grounds for relief are not  
24 properly before the Court, NRS 34.810, and are not supported by  
25 specific factual allegations not belied by the record, that, if  
26 true, would entitled him to relief. *Mann v. State*, 118 Nev. 351,  
27 353 (2002). The Petition bears denial, without an evidentiary  
28 hearing, on these grounds as well. NRS 34.770(2).

1 Irrespective, Petitioner's claims lack merit. NRS 176.015;  
2 *McCleskey v. Kemp*, 481 U.S. 279, 292 (1987).

3 Petitioner's *Petition for Writ of Habeas Corpus (Post-*  
4 *Conviction)* is dismissed on procedural and substantive grounds.

5 IT IS SO ORDERED.

6 DATED this 18<sup>th</sup> day of October, 2021.

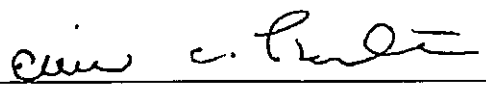
7  
8   
9 THOMAS W. GREGORY  
DISTRICT JUDGE

10  
11  
12 Copies served by mail/hand delivery on October 19<sup>th</sup>, 2021,  
13 addressed to:

14 Michael Cota (Mail)  
15 #1206075  
16 Ely State Prison  
17 P.O. Box 1989  
Ely, Nevada 89301

18 Douglas County District Attorney's Office (Hand Delivery)  
19 1038 Buckeye Road  
Minden, Nevada 89423

20 Office of the Attorney General (Mail)  
21 100 N. Carson Street  
22 Carson City, Nevada 89701

23   
24 Erin C. Plante  
25  
26  
27  
28

Form 2. Case Appeal Statement

No. 2018-CR-00084B

RECEIVED

OCT 28 2021

Douglas County  
District Court Clerk

MICHAEL COTA,

FILED

Dept. No. II

2021 OCT 28 PM 3:06

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE

OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

DOUGLAS WILLIAMS  
CLERK

BY [Signature] DEPUTY

Appellant,

vs

WARDEN, N.D.O.C.

THE STATE OF NEVADA,

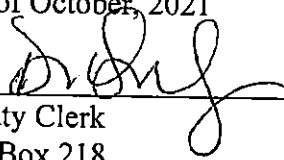
Respondent.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:  
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:  
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:  
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301- In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):  
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):  
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: In this matter, 2018-CR-00084B, the appellant is Pro Per.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:  
Unrepresented.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:  
The appellant has not been granted leave to proceed in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): Writ of Habeas Corpus Post-Conviction filed 8/12/2021.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the court: This is a post-conviction criminal matter whereas the defendant filed Post Conviction Petition Requesting a Genetic Marker Analysis of Evidence Within the Possession or Custody of the State of Nevada (NRS 176.0918). The court entered an Order Denying Post Conviction Petition Requesting Genetic Marker Analysis which is now the subject of this appeal.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:  
No.
12. Indicate whether this appeal involves child custody or visitation:  
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:  
Unknown.

Dated this 28<sup>th</sup> day of October, 2021

  
\_\_\_\_\_  
Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820

RECEIVED

OCT 28 2021

B. NATURE OF THE CASE

FILED

Briefly state, in numbered paragraphs, the background facts of your case (you may attach additional pages, in necessary) :

Douglas County  
District Court Clerk

2021 OCT 28 PM 3:07

BOESNER WILLIAMS  
CLERK

BY [Signature] DEPUTY

NINTH JUDICIAL DISTRICT COURT  
DOUGLAS COUNTY NEVADA

MICHAEL COTA

CASE #

PLAINTIFF

CR-18-0084 B

VS

CR-18-0116

WARDEN William GITTERE  
Respondent

NOTICE OF APPEAL

MR COTA GIVES NOTICE OF HIS APPEAL TO THE NEVADA SUPREME COURT OF THIS COURTS DISMISSAL OF HIS PETITION FOR WRIT OF HABEAS CORPUS. MR COTA WAS NEVER SERVED WITH THE STATES RESPONSE SO HE COULD ANSWER. ALSO ON THE DENIAL IT STATES THE ANSWER WAS FILED ON 8/12/21 YET THE DOCKET SHEET STATES 9/15/21. MR COTA HAD AN ABSOLUTE RIGHT TO BE SERVED SO HE COULD RESPOND.

DATED THIS 21<sup>ST</sup> DAY OF OCTOBER 2021  
X MICHAEL COTA II

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**AFFIRMATION PURSUANT TO NRS 239B.030**

The undersigned does hereby affirm that the preceding complaint does not contain the social security number of any person.

Dated this 21<sup>ST</sup> day of OCTOBER, 2021.

x M. Cota

MICHAEL COTA #1206075  
ELY STATE PRISON  
P.O. BOX 1989  
Ely, NV. 89301  
Plaintiff In Pro Se

717



RECEIVED

NOV 09 2021

Douglas County  
District Court Clerk

FILED

2021 NOV -9 PM 3:5

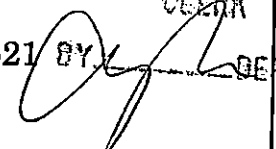
BOBBIE R. WILLIAMS  
CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Petitioner,  
vs.

THE NINTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
DOUGLAS,  
Respondent,

and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 83521 BY  DEPUTY

FILED

NOV 05 2021


ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

2018 - CR - 00084 B


ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

  
Hardesty, C.J.

  
Parraguirre, J.

  
Stiglich, J.

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

RECEIVED

Form 2. Case Appeal Statement

NOV 10 2021

No. 2018-CR-00084B  
2021 NOV 10 PM 4:36

Douglas County  
District Court Clerk

Dept. No. II

BOBBIE A. WILKINS  
CLERK OF THE NINTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS  
BY D. Cota DEPUTY

MICHAEL COTA,

Appellant,

vs

WARDEN, N.D.O.C.  
THE STATE OF NEVADA,

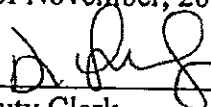
Respondent.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:  
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:  
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:  
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301- In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):  
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):  
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: In this matter, 2018-CR-00084B, the appellant is Pro Per.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:  
Unrepresented.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:  
The appellant has not been granted leave to proceed in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): Petition for Writ of Habeas Corpus( Post-Conviction) filed 8/09/2021.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the court: This is a post-conviction criminal matter whereas the defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction), The court entered an Order Dismissing Petition for Writ of Habeas Corpus which is the subject of this appeal.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:  
No. 83663 and 83521
12. Indicate whether this appeal involves child custody or visitation:  
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:  
No.

Dated this 10<sup>th</sup> day of November, 2021

  
\_\_\_\_\_  
Deputy Clerk  
P.O. Box 218  
Minden, Nevada 89423  
775-782-9820

RECEIVED

NOV 16 2021

Douglas County  
District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK

MICHAEL LUIS COTA,

Appellant,

vs.

WILLIAM A. GITTERE, WARDEN, NEVADA

DEPARTMENT OF CORRECTIONS,

Respondent.

Supreme Court No. 83774

District Court Case No. 18-CR-00084

November 16, 2021

FILED 2018-CR-00084 B @ 9:30 a.m.

BOBBIE R. WILLIAMS

CLERK OF COURT

BY  DEPUTY

RECEIPT FOR DOCUMENTS

TO: Michael Luis Cota

Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney

Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

11/15/2021 Appeal Filing Fee waived. Criminal. (SC)

11/15/2021 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: November 15, 2021

Elizabeth A. Brown, Clerk of Court

lh

RECEIVED

NOV 16 2021

Douglas County  
District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK

MICHAEL LUIS COTA,  
Appellant,  
vs.

WILLIAM A. GITTERE, WARDEN, NEVADA  
DEPARTMENT OF CORRECTIONS,  
Respondent.

Supreme Court No. 83773  
District Court Case No. 18-CR-00084; 18-CR-

NO. <sup>00116</sup> 2018-CR-00084B  
FILED November 16, 2021 2:30 p.m.

BOBBIE R. WILLIAMS  
CLERK OF COURT

BY  DEPUTY

RECEIPT FOR DOCUMENTS

TO: Michael Luis Cota  
Douglas County District Attorney/Minden \ Mark B. Jackson, District Attorney  
Bobbie W. Williams, Douglas County Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

11/15/2021	Appeal Filing Fee waived. Criminal. (SC)
11/15/2021	Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (18-CR-00084) (SC)
11/15/2021	Filed Notice of Appeal/Proper Person. (18-CR-00116) (SC)

DATE: November 15, 2021

Elizabeth A. Brown, Clerk of Court  
lh

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NOV 22 2021

Douglas County  
District Court Clerk

FILED

NOV 22 PM 3:41

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBIE H. WILLIAMS

CLERK

BY

DEPUTY

No. 83663

2018-CR00084B

MICHAEL LUIS COTA,

Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
DOUGLAS,  
Respondent.

FILED

NOV 17 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

BY

DEPUTY CLERK

### ORDER DENYING PETITION

This is an original writ petition seeking to compel the district court to take action on several documents filed in the district court.

The decision to entertain a petition for extraordinary writ relief lies within the discretion of this court. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). A writ of mandamus is available only to compel the performance of a legally required act or to cure an arbitrary and capricious exercise of discretion. *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). It is petitioner's burden to demonstrate that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Problematically, petitioner has not provided this court with a copy of the documents he alleges to have filed with the district court, namely a motion to proceed in forma pauperis, petition for genetic marker analysis, "motion to order counsel to produce all case records", or proof of service of the postconviction petition for a writ of habeas corpus, on the

attorney general or district attorney, precluding writ relief. See NRAP 21(a)(4) (providing the petitioner shall submit an appendix containing all documents "essential to understand the matters set forth in the petition"). Accordingly, we

ORDER the petition DENIED.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

RECEIVED

NOV 29 2021

Douglas County  
District Court Clerk

2018-CR-00084

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LUIS COTA,  
Appellant,  
vs.  
WILLIAM A. GITTERE, WARDEN,  
NEVADA DEPARTMENT OF  
CORRECTIONS,  
Respondent.

FILED

NOV 29 AM 11:59

ELIZABETH A. WILLIAMS

No. 83774

DEPUTY

FILED

NOV 24 2021

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

*ORDER DIRECTING TRANSMISSION OF RECORD  
AND REGARDING BRIEFING*

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response



to any brief filed by appellant, unless ordered to do so by this court. NRAP 46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

1. J. S. S. S. C.J.

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

**FILED**  
**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MICHAEL LUIS COTA,  
Petitioner,  
vs.

THE NINTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF DOUGLAS,

Respondent,  
and

THE STATE OF NEVADA,  
Real Party in Interest.

2021 DEC -2 PM

Supreme Court No. 83521

District Court Case No. 18-CR-00084; 18-CR-00116

BOBBIE R. WILLIAMS  
CLERK

**RECEIVED**

**DEC - 2 2021**

Douglas County  
District Court Clerk

**NOTICE IN LIEU OF REMITTITUR**

TO THE ABOVE-NAMED PARTIES:

The decision and Order of the court in this matter having been entered on November 5th, 2021, and the petition for rehearing having been denied, notice is hereby given that the Order and decision entered herein has, pursuant to the rules of this court, become effective.

DATE: November 30, 2021

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

cc: Douglas County District Attorney/Minden  
Michael Luis Cota  
Bobbie W. Williams, Douglas County Clerk

RECEIVED

DEC 15 2021

FILED

Douglas County  
District Court Clerk

2021 DEC 15 AM 9:18

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBIE R. WILLIAMS  
CLERK

MICHAEL LUIS COTA,

DEPUTY

Appellant,

vs.

WILLIAM A. GITTERE, WARDEN,  
NEVADA DEPARTMENT OF  
CORRECTIONS,

Respondent.

No. 83773

FILED

DEC 13 2021

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

*ORDER DIRECTING TRANSMISSION OF RECORD, REGARDING  
BRIEFING, AND DENYING MOTION*

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

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21-35358

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

Appellant has filed a pro se motion for an appointment of counsel. Appellant is not entitled to appointed counsel at the state's expense in postconviction proceedings. *See Brown v. McDaniel*, 130 Nev. 565, 569-71, 331 P.3d 867, 870-71 (2014); *see also Coleman v. Thompson*, 501 U.S. 722, 755 (1991). Accordingly, the motion is denied at this time.

It is so ORDERED.

*L. J. J. J.*, C.J.

cc: Michael Luis Cota  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

**RECEIVED**

DEC 16 2021

2018-CR-00084B

Douglas County  
District Court Clerk

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MICHAEL LUIS COTA,  
Petitioner,

2021 DEC 16 AM 10:07

Supreme Court No. 83663

vs.

BOBBIE R. WILLIAMS

THE NINTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE COUNTY  
COUNTY OF DOUGLAS,  
Respondent.

**NOTICE IN LIEU OF REMITTITUR**

TO THE ABOVE-NAMED PARTIES:

The decision and Order of the court in this matter having been entered on November 17th, 2021, and the period for the filing of a petition for rehearing having expired and no petition having been filed, notice is hereby given that the Order and decision entered herein has, pursuant to the rules of this court, become effective.

DATE: December 14, 2021

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

cc: Douglas County District Attorney/Minden  
Attorney General/Carson City \ Aaron D. Ford, Attorney General  
Michael Luis Cota  
Bobbie W. Williams, Douglas County Clerk

