

Case No. 27CV-WR1-2018-0025

Dept. No. 1

Electronically Filed
Aug 03 2022 10:37 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

Milton D. Plummer

Plaintiff(s),

vs.

Rene Baker, L.L.C.

Defendant(s).

Notice of Appeal

Notice is given that Plaintiff, Milton Plummer
in Pro se, hereby appeals to the Nevada
Supreme Court the order; Pursuant to
Denial of Rule 60(b) motion Pursuant to
a "Void Judgment" as Filed/entered on
the 31 day of May, 2022. Which allows
Plaintiff an appeal Pursuant to Nev.R.App.P.
3A(b)(8); Milton v. Gesler, 107 Nev. 767, 819 P.2d 245 (1991)
Dated this 29 day of June, 2022

x. Milton Plummer
Milton D. Plummer

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 29 day of June, 2022, by placing same in the U.S. Mail via prison law library staff: Postage Prepaid

Sheryl Serreze, Deputy Atty. General
100 N. Carson St.
Carson City, NV. 89701

Milton Plummer
Milton Plummer # 73858
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Plaintiff In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. 27CV-WR1-2018-0025 does not contain the social security number of any person.

Dated this 29 day of June, 2022.

Milton Plummer
Milton Plummer

Plaintiff In Pro Se

Case No. 27CV-WR1-2018-0025

Dept. No. 1

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

Milton D. Plummer

Plaintiff(s),

vs.

Rene Baker, L.L.C.

Defendant(s).

Notice of Appeal

Notice is given that Plaintiff, Milton Plummer
in Pro Se, hereby appeals to the Nevada
Supreme Court the order; Pursuant to
Denial of Rule 60(b) motion Pursuant to
a "Void Judgment" as Filed/entered on
the 31 day of May, 2022 Which allows
Plaintiff an appeal Pursuant to Nev.R.App.P.
3A(b)(8); Milton v. Gesler, 107 Nev. 767, 819 P.2d 245 (1991)
Dated this 29 day of June, 2022

x. Milton Plummer
Milton D. Plummer

1
2
3 CERTIFICATE OF SERVICE

4 I do certify that I mailed a true and correct copy of the
5 foregoing NOTICE OF APPEAL to the below address(es) on this
6 29 day of June, 2022, by placing same in the
7 U.S. Mail via prison law library staff: Postage Prepaid

8 Sheryl Serreze, Deputy Atty. General
9 100 N. Carson St.
10 Carson City, NV. 89701
11
12
13
14
15

16
17 Milton Plummer # 73858
18 Lovelock Correctional Center
19 1200 Prison Road
20 Lovelock, Nevada 89419

21 Plaintiff In Pro Se

22 AFFIRMATION PURSUANT TO NRS 239B.030

23 The undersigned does hereby affirm that the preceding
24 NOTICE OF APPEAL filed in District Court Case No. 27CV-WRI-2018-0025
25 does not contain the social security number of any person.

26 Dated this 29 day of June, 2022.

27 Milton Plummer
28 Milton Plummer

Plaintiff In Pro Se

Case No. 27CV-WR1-2018-0025

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

MILTON D. PLUMMER,

Plaintiff,

vs.

RENE BAKER, L.C.C,

Defendant.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Milton D. Plummer

2. Identify the judge issuing the decision, judgment or order appealed from:

Honorable Jim C. Shirley

3. Identify each appellant and the name and address of counsel for each appellant:

Milton D. Plummer #73858

Pro Per
1200 Prison Road
Lovelock Correctional Center
Lovelock, NV. 89419

- 1
- 2
- 3
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):

4

State of Nevada

5

Office of the Attorney General
6 100 North Carson Street
7 Carson City, NV. 89701-4717

- 8
- 9
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):

10

N/A

- 11
- 12
6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

13

No, Pro Per

- 14
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

15

No

- 16
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:

17

There is no Order to Proceed in Forma Pauperis.

- 18
- 19
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

20

A Petition for a Writ of Habeas Corpus was filed 09/27/2018.

- 21
- 22
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 district court:

23

24

A Petition for a Writ of Habeas Corpus was filed 09/27/2018. A Response was filed 11/20/2018. An Opposition to Answer was filed

12/04/2018. An Order of dismissal was filed 08/14/2019. A Notice of Appeal was filed 11/09/2020. An Order dismissing Appeal was filed 12/30/2020. A Notice of Motion was filed 03/11/2021. An Opposition to Petitioners Motion was filed 05/13/2022. An Order denying Motion for Relief was filed 05/31/2022. A Notice of Appeal was filed 07/08/2022.


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:

This case has previously Appealed to the Supreme Court. Notice of Appeal filed 12/09/2020. Docket # 82181

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, Order Denying Motion for Relief was filed 05/31/2022.

Dated this 2nd day of August 2022.


Shylaa George Deputy Court Clerk
P.O. Box H
Lovelock, NV. 89419
(775) 273-2410

Case Snapshot: Tue Aug 02 10:38:08 PDT 2022

Case Number: 27CV-WR1-2018-0025

Case Name: MILTON DAVID PLUMMER VS STATE OF NEVADA

Date Filed: 09-27-2018

Disposition: Judicial Review

Parties:

RESP: STATE OF NEVADA

Atty: Sheryl Serreze

NEVADA ATTORNEY GENERAL'S OFFICE

PL: MILTON DAVID PLUMMER

Address: 1200 PRISON ROAD, LOVELOCK NV 89419

J: Hon. Jim Shirley

Hearings:

Dockets:

08-02-2022Case Appeal Statement

08-02-2022 63.1 Case Appeal Statement

07-08-2022Notice of Appeal

07-08-2022 61.1 Notice of Appeal

06-07-2022Affidavit of Mailing

06-07-2022 60.1 Affidavit of Mailing

06-06-2022Notice of Entry of Order

06-06-2022 59.1 Notice of Entry of Order

05-31-2022Order (Denying Motion for Relief)

05-31-2022 58.1 Order (Denying Motion for Relief)

05-27-2022Reply to Opposition to Motion For Relief From Judgement Or Order As Provided Pursuant to Rule 60(B)

05-27-2022 57.1 Reply to Opposition to Motion For Relief From Judgement Or Order As Provided Pursuant to Rule 60(B)

05-27-2022 57.1.1 Exhibit 3

05-27-2022 57.1.2 Exhibit 4

05-27-2022 57.1.3 Exhibit 5

05-16-2022"Supplemental" Memorandum of Points and Authorities in Support of Relief Pursuant to Nev.R.Civ.P.60(b)

05-16-2022 55.1 "Supplemental" Memorandum of Points and Authorities in Support of Relief Pursuant to Nev.R.Civ.P.60(b)

05-16-2022 Request for Submission of Motion

05-16-2022 54.1 Request for Submission of Motion

05-13-2022 Opposition to Petitioner's Motion for Relief from Judgment or Order as Provided Pursuant to Rule 60(B)

05-13-2022 52.1 Opposition to Petitioner's Motion for Relief from Judgment or Order as Provided Pursuant to Rule 60(B)

05-13-2022 52.1.1 Exhibit 7

05-04-2022 Notice of Motion Motion for Relief from a Judgment or Order as Provided Pursuant to Rule 60(b)

05-04-2022 50.1 Notice of Motion Motion for Relief from a Judgment or Order as Provided Pursuant to Rule 60(b)

05-04-2022 50.1.1 Exhibit

05-04-2022 50.1.2 Exhibit

03-22-2021 Request for Submission

03-22-2021 41.1 Request for Submission

03-11-2021 Notice of Motion for Judgment Notwithstanding the Verdict Pursuant to Nev.R.Civ.P. Rule 50

03-11-2021 39.1 Notice of Motion for Judgment Notwithstanding the Verdict Pursuant to Nev.R.Civ.P. Rule 50

03-11-2021 39.1.1 Exhibit 1

03-11-2021 39.1.2 Exhibit 2

03-11-2021 39.1.3 Exhibit 3

03-11-2021 Notice of Entry - Order Denying Writ of Habeas Corpus

03-11-2021 38.1 Notice of Entry - Order Denying Writ of Habeas Corpus

03-11-2021 Alternative Relief Pursuant to a Violation of the Ex Post Facto Clause of the United States Constitution

03-11-2021 36.1 Alternative Relief Pursuant to a Violation of the Ex Post Facto Clause of the United States Constitution

03-11-2021 36.1.1 Exhibit 1

03-11-2021 36.1.2 Exhibit 2

03-11-2021 36.1.3 Exhibit 3

03-11-2021 Request for Submission

03-11-2021 35.1 Request for Submission

02-24-2021 Order Denying Petition

02-24-2021 33.1 Order Denying Petition

01-28-2021Remittitur

01-28-2021 31.1 Remittitur

12-30-2020Order Dismissing Appeal

12-30-2020 28.1 Order Dismissing Appeal

12-02-2020Case Appeal Statement

12-02-2020 23.1 Case Appeal Statement

11-09-2020Notice of Appeal

11-09-2020 22.1 Notice of Appeal

10-28-2020Notice of Entry Of Order Re: Order Denying Article for Relief

10-28-2020 20.1 Notice of Entry Of Order Re: Order Denying Article for Relief

10-26-2020Order Denying Article for Relief

10-26-2020 19.1 Order Denying Article for Relief

09-22-2020Other Filing Article for Relief Pursuant to A Violation of the Ex Post Facto Clause of the U.S. Constitution (U.S. Const., Art. 1,9,C1.3, and 10,CL.1.)

09-22-2020 16.1 Other Filing Article for Relief Pursuant to A Violation of the Ex Post Facto Clause of the U.S. Constitution (U.S. Const., Art. 1,9,C1.3, and 10,CL.1.)

09-22-2020Request for Submission

09-22-2020 15.1 Request for Submission

08-14-2019Order - Dismissal

08-14-2019 14.1 Order - Dismissal

04-02-2019Other Filing Proposed Remedy

04-02-2019 13.1 Other Filing Proposed Remedy

03-18-2019Memorandum of Points and Authorities

03-18-2019 12.1 Memorandum of Points and Authorities

02-21-2019Notice of Substitution of Counsel Notice of Change of Attorney for Respondents

02-21-2019 11.1 Notice of Substitution of Counsel Notice of Change of Attorney for Respondents

12-04-2018Opposition to Answer to Petition For Writ of Habeas Corpus

12-04-2018 10.1 Opposition to Answer to Petition For Writ of Habeas Corpus

12-04-2018Motion to Strike, Findings of Fact, Conclusions of Law and Order

12-04-2018 9.1 Motion to Strike, Findings of Fact, Conclusions of Law and Order

11-20-2018Exhibits Exhibit 1

11-20-2018 8.1 Exhibits Exhibit 1

11-20-2018 Request for Submission Request for Submission
11-20-2018 7.1 Request for Submission Request for Submission

11-20-2018 Exhibits Exhibits 1-6
11-20-2018 6.1 Exhibits Exhibits 1-6

11-20-2018 Answer/Response - Civil Answer to Petition for Writ of Habeas Corpus
11-20-2018 5.1 Answer/Response - Civil Answer to Petition for Writ of Habeas Corpus

10-19-2018 Notice of Appearance Notice of Appearance for Respondents
10-19-2018 4.1 Notice of Appearance Notice of Appearance for Respondents

10-15-2018 Notice of Entry Notice of Entry of Order
10-15-2018 3.1 Notice of Entry Notice of Entry of Order

10-12-2018 Order
10-12-2018 2.1 Order

09-27-2018 Petition Petition for a Writ of Habeas Corpus (Computation of Time)
09-27-2018 1.1 Petition Petition for a Writ of Habeas Corpus (Computation of Time)

Case No. 27CV-WR1-2018-0025/PI 18-1258

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

MILTON PLUMMER,

Petitioner,

vs.

RENE BAKER, L.C.C.,

Respondent.

ORDER

THIS MATTER comes before the Court on petitioner Milton David Plummer's (Plummer) Motion For Relief From Judgment Or Order Pursuant to Nevada Rule of Civil Procedure 60(b) on May 4, 2022, asserting that the order dismissing his petition was void. Respondents filed an opposition. Because the order dismissing the petition was not void, the Motion for Relief From Judgement or Oder will be denied.

The original petition for writ of habeas corpus in this case was filed on September 9, 2018. An answer was filed by the Respondent to the petition on November 20, 2018. There was an order issued by the court on August 14, 2019, dismissing the petition on the grounds that it was substantially similar to a prior petition challenging the computation of time.

A judgment is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law. *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 906 P.2d 258 (1995); Wright & Miller, § 2862 Void Judgment, 11 Fed. Prac. & Proc. Civ. § 2862 (3d ed.). Here, Plummer was incarcerated at Lovelock Correctional Center at the time he filed his original petition and therefore the 11th Judicial District Court had jurisdiction at all relevant times. The order dismissing the petition was not void and relief under NRCP 60(b)(4) is not available.

///

1 Plummer does not assert that there is any newly discovered evidence which would entitle him to
2 relief under NRCP 60(b)(2), nor does he assert fraud under NRCP 60(b)(3). As Plummer did not assert
3 both injury and circumstances beyond his control that prevented him from filing a timely appeal or
4 motion, relief under NRCP 60(b)(6) is not available either.

5 **ORDER**

6 THEREFORE, IT IS HEREBY ORDERED that Plummer's Motion For Relief From Judgment
7 Or Order Pursuant to Nevada Rule of Civil Procedure is **DENIED**.

8
9
10
11
12
13
14
15 Submitted by:
16 /s/ Sheryl Serreze
17 SHERYL SERREZE (Bar No. 12864)
18 Deputy Attorney General
19 State of Nevada
20 Office of the Attorney General
21 100 North Carson Street
22 Carson City, Nevada 89701-4717
23 Telephone: (775) 684-1272
24 Fax: (775) 684-1108
25 SSerreze@ag.nv.gov
26 *Attorney for Respondent*
27
28

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: MILTON DAVID PLUMMER VS STATE OF NEVADA

Case Number: 27CV-WR1-2018-0025

Type: Order

It is so Ordered.

Judge Shirley

1 CASE NO. 27CV-WR1-2018-0025

2 *Pursuant to NRS 239B.030, the undersigned affirms*
3 *that this document does not contain social security numbers.*

4
5
6 IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF PERSHING
8

9 MILTON PLUMMER,

10 Petitioner,

11 vs.

12 RENE BAKER, L.C.C.,

13 Respondent

NOTICE OF ENTRY
OF ORDER

14 PLEASE TAKE NOTICE that the Court entered ORDER on May 31, 2022, a true
15 and correct copy of which is attached to this notice.

16 If this is a final order and if you wish to appeal to the Nevada Supreme Court, you
17 must file a Notice of Appeal with the Clerk of this Court within 33 days after the date this
18 notice is mailed/electronically served to you.

19 DATED this 6th day of June 2022.

20 KATRENA M. MARTIN
21 CLERK OF THE COURT

22
23 By /s/ Adriana Ramos
24 Deputy
25
26
27
28

Case No. 27CV-WR1-2018-0025/PI 18-1258

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

MILTON PLUMMER,

Petitioner,

vs.

RENE BAKER, L.C.C.,

Respondent.

ORDER

THIS MATTER comes before the Court on petitioner Milton David Plummer's (Plummer) Motion For Relief From Judgment Or Order Pursuant to Nevada Rule of Civil Procedure 60(b) on May 4, 2022, asserting that the order dismissing his petition was void. Respondents filed an opposition. Because the order dismissing the petition was not void, the Motion for Relief From Judgement or Oder will be denied.

The original petition for writ of habeas corpus in this case was filed on September 9, 2018. An answer was filed by the Respondent to the petition on November 20, 2018. There was an order issued by the court on August 14, 2019, dismissing the petition on the grounds that it was substantially similar to a prior petition challenging the computation of time.

A judgment is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law. *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 906 P.2d 258 (1995); Wright & Miller, § 2862 Void Judgment, 11 Fed. Prac. & Proc. Civ. § 2862 (3d ed.). Here, Plummer was incarcerated at Lovelock Correctional Center at the time he filed his original petition and therefore the 11th Judicial District Court had jurisdiction at all relevant times. The order dismissing the petition was not void and relief under NRCP 60(b)(4) is not available.

///

1 Plummer does not assert that there is any newly discovered evidence which would entitle him to
2 relief under NRCP 60(b)(2), nor does he assert fraud under NRCP 60(b)(3). As Plummer did not assert
3 both injury and circumstances beyond his control that prevented him from filing a timely appeal or
4 motion, relief under NRCP 60(b)(6) is not available either.

5 **ORDER**

6 THEREFORE, IT IS HEREBY ORDERED that Plummer's Motion For Relief From Judgment
7 Or Order Pursuant to Nevada Rule of Civil Procedure is **DENIED**.

8
9
10
11
12
13
14
15 Submitted by:
16 /s/ Sheryl Serreze
17 SHERYL SERREZE (Bar No. 12864)
18 Deputy Attorney General
19 State of Nevada
20 Office of the Attorney General
21 100 North Carson Street
22 Carson City, Nevada 89701-4717
23 Telephone: (775) 684-1272
24 Fax: (775) 684-1108
25 SSerreze@ag.nv.gov
26 Attorney for Respondent
27
28

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: MILTON DAVID PLUMMER VS STATE OF NEVADA

Case Number: 27CV-WR1-2018-0025

Type: Order

It is so Ordered.

Judge Shirley

Case No. 27CV-WR1-2018-0025

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

MILTON D. PLUMMER

Petitioner,

vs.

RENE BAKER, L.C.C.

Respondent.

CERTIFICATE

State of Nevada)
 : ss.
County of Pershing)

I, SHYLAA GEORGE, Deputy Clerrk, do hereby certify that the following are true and correct copies of the original documents in the above-entitled case, which was appealed to the Supreme Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lovelock, Nevada, this 2ND day of August 2022.

KATE MARTIN
Eleventh Judicial District Court Clerk

By: Shylaa George
Deputy Clerk

**ELEVENTH JUDICIAL
DISTRICT COURT**

Jim C. Shirley
District Judge
Tel. (775) 273-2410
Fax (775) 273-4921



Kate Martin
Court Administrator
Tel. (775) 273-2410
kmartin@11thjudicialdistrictcourt.net

August 2, 2022

Elizabeth Brown
Supreme Court Clerk
201 South Carson Street
Carson City, NV 89701-4702

Re: Notice of Appeal / 27CV-WR1-2018-0025
Milton D. Plummer Vs State of Nevada

Enclosed, please find the following documents as it relates to an Appeal filed on
July 8, 2022:

- Certification
- Exhibit List (if applicable)
- Minutes (if applicable)
- Notice of Entry of Order (with Order)
- Judgement / Order
- District Court Docket
- Case Appeal Statement
- Notice of Appeal

Should you have any questions or require additional information, please do not
hesitate to contact the Court.

KATE MARTIN
Eleventh Judicial District Court Clerk

By: *Shylah George*
Deputy Clerk

/km
Encl.

☐ **Pershing County**
P.O. Box H
Lovelock, NV 89419
Tel. (775) 273-2410
Fax: (775) 273-2434

☐ **Lander County**
50 State Route 305
Battle Mountain, NV 89820
Tel. (775) 635-1332
Fax: (775) 635-0394

☐ **Mineral County**
P.O. Box 1450
Hawthorne, NV 89415-0400
Tel. (775) 945-0738
Fax: (775) 945-0706