

FILED

SEP 22 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Kenneth Patton

Appellant,

vs.

The Nevada Board of Parole Commissioners
Respondent.

Supreme Court No. 85174

District Court No. 420-821300-W

APPELLANT'S INFORMAL BRIEF

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may submit your brief for filing in person or by mail.

To file your brief in person: Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

Carson City: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

Las Vegas: Place your brief in the Clerk's Office Drop Box at the Las Vegas courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

Informal Brief Form October 2017

22-29824

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
8-16-22	order Denying Petitioner For writ of habeas Corp's

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 8-16-22

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
82921	order of Reversal and Remand	Court of appeals
94420	Petitioner For writ of mandamus	District Court
77032	writ of mandamus (Reconsideration)	Supreme Court

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

I Kenneth Patton Pro-se, and respectfully move this court to issue a writ of mandamus. This district has been running Petitioner around and around. None of Petitioner request were or are answer, no motion's are answer the district court order from 1-26-21 and 6-16-22, district court order for Petition for writ of habeas Corp's, this court says Petitioner Filed a Petition for writ of habeas Corp's (Post-conviction Relief) on Sept 16, 2020, this court says; the court has reviewed the Petition and has determined that a Response would assist the court in determining

whether Petitioner is illegally imprisoned and restrained of his/her liberty and good cause appearing therefore, Petitioner never filed Petition for writ of habeas corpus (Sept 16, 2020) Petitioner Filed an writ of mandamus (Sept 16, 2020). This is not a typo By the state or this court. Now that you have given the respondents an opportunity to file a response would you not aid in a resolution of this case, not only that But the court order the Respondent's shall have within 45 days after the date of this said order to answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to NRS 34.380. This never happen. Petitioner then filed an motion for Default, no answer! the court of Appeal ruled (Collectively the Board) Violated the Supreme court's holding in Anselmo -v- Bisbee 133 Nev 317, 396 P3d 848 (2017) by basing its decision to deny his application for parole on several impermissible aggravating factors. The court of Appeal says that the district court abused its discretion in dismissing Petitioner writ. NRS 34.360 says Every person unlawfully committed detained confined or restrained of his or her liberty under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. But this is a writ of mandamus (Formerly a high prerogative writ which issues from a court of superior jurisdiction. This mandamus in aid of the appellate jurisdiction that might otherwise be defeated by the unauthorized action of the court Below a writ of mandamus is to confine an inferior court to a lawful exercise its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so. Everything I Need to Explain

is in Petitioner Pursuant to NRS 34.150, 34.170, 34.180, or 34.185
Petition for writ of mandamus (Reconsideration) Filed 9-16-
2020 / CASE # 20-824300-W. There is not enough room to write
the whole writ. This is an unintentional error in legal
procedure, an abuse of discretion and a abuse of the writ
or form that does not indicate bad faith and that comm-
only warrants excuse or relief by the court. This is
a mistake of law, not a typo, this is misleading.
wherefore, all the above stated reason Petitioner respectfully
request this court or Parole Board to Reconsider their decisions
denying me Parole on 2-7-13, 5-16-18, 2-22-21 and due to using
the same aggravating factors while reflecting a low assessment
risk three times within a reasonable time as required by:
NRS 34.150, 34.310 and 34.170

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

① The court judge order the Deputy District attorney and the defendant counsel to make sure Patton's PSI will be amended with the PAP and put in his prison jacket. This was never done. At the end of Patton's jail Patton Counsel quit.

② I was not Drinking I never took a test so how can this be on my PSI. This is a Abuse of discretion

③ If indeed, the movement of the victim is incidental to the robbery and does not substantially increase the risk of harm over and above the necessarily present in the crime of

Robbery itself, it would be unreasonable to believe that the legislature intended a double punishment. "Id under such circumstance the Court ruled a Kidnapping charge would not lie this reasoning applies as well to other Crimes besides robbery where some form of movement restraint detainment etc.... this also inherent *Mendoza-v-state*, 130 P.3d 176, 180 (Nev 2006) the Wright court further ruled that on the other hand, if the movement of the victim results in increased danger over and above that present in the crime of Robbery Itself, A Kidnapping charge may also lie "Wright, *supra*, at 444. also in (10/24/2011) judge Bell, Steward - the judge said that Petitioner tied the victim up or tied her to a chair in some fashion for some substantial period of time while threatening her. thought Petitioner hole case there was no talk about tying the victim up how can this be. But the judge believed what he said and Dismiss the case. it is absolutely clear that in deciding Wright the Nevada supreme court established Elements in NRS 200-310 for First degree Kidnapping ~~not~~ to be applied when ever the state elects to charge and try a defendant for First degree Kidnapping and an associated offense, such as Robbery stemming from a single incident, this can be effectively termed the "Wright Rule" clearly intended to cure defendant to an un contemplated double punishment caused by the deficiencies in NRS 200:310(1) *EN Longford-v-state* 600 P.2d 231-236 (Nev 1979)

under the current Rule in addition to the literal statutory elements of movement, Restraint, detainment etc.... the state would also be required by law to prove, and the jury to find beyond a reasonable doubt over and above that necessarily present in the associated crime itself before the state could legally Convict a defendant of first degree Kidnapping Pursuant to NRS 200.310(4). Id at 236-237. Now Patton was charged with an weapon after trial Patton was acquitted from such weapon so why Reasonable Doubt did not rule out Kidnapping, to amend the Statute in an effort to cure or remedy, the overbroadness and deficiencies of the statute as pointed out by the Nevada Supreme Court over thirty (30) ago.

The Action I would like the Supreme Court to take, is to read all my motion's and rule ~~and~~ on my illegally imprisonment of my liberty. This was Patton's first Domestic Violence charge me and MS alfonso was together for 2 1/2 years we had the same Bank account the same money how could I Rob myself all she said is that she could not find our C-C card the next thing I was charged with Robbery there were no money taken so what did I Robb her of. the District court don't want to rule on this matter so here it is again Back in your court please give me Relief and compensated. and Get me a lawyer