

*Steven D. Grierson*

In Proper Person  
P.O. Box 650 H.D.S.P.  
Indian Springs, Nevada 89018

Electronically Filed  
Sep 14 2022 03:27 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

8th DISTRICT COURT  
Clark COUNTY NEVADA

Cristobal Benavides,

Petitioner,

-v-

State of Nevada; ET AL,

Respondent,

C-18-331026-1  
Case No. A-22-849801-W  
Dept.No. XVII  
Docket \_\_\_\_\_

NOTICE OF APPEAL

Notice is hereby given that the PETITIONER, CRISTOBAL  
Benavides, by and through himself in proper person, does now appeal  
to the Supreme Court of the State of Nevada, the decision of the District  
Court. Therefore, IT IS HERBY ORDERED that the petition  
for Post-Conviction Relief shall be and is DENIED

Dated this date, 08/30/2022.

Respectfully Submitted,

*Benavides*

In Proper Person

RECEIVED  
SEP 06 2022

**CERTIFICATE OF SERVICE BY MAILING**

I, Cristobal Benavides, hereby certify, pursuant to NRCp 5(b), that on this \_\_\_  
day of 30 agosto, 2022, I mailed a true and correct copy of the foregoing, "notice  
of appeal"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

District court  
District Attorney  
200 Lewis Avenue  
PO Box 551222  
Las Vegas NV 89155

Attorney General

DATED: this 30 day of agosto, 2022.

/In Propria Persona  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018

**AFFIRMATION**  
Pursuant to NRS 239B.030

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

\_\_\_\_\_  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☐ Does not contain the social security number of any person.

**-OR-**

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

**-or-**

B. For the administration of a public program or for an application  
for a federal or state grant.

\_\_\_\_\_  
Signature

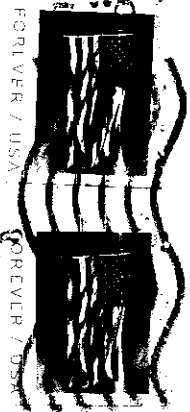
\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

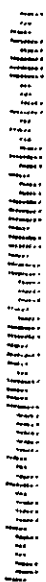
CRISTOBAL Benavides, I.D #1219435  
HIGH DESERT STATE PRISON  
P.O. BOX 650  
Indian Springs, Nevada 89070

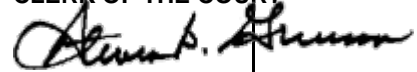
LAS VEGAS NV 890  
31 AUG 2022 PM 4



ELIGHTN Judicial District Court  
Clerk of Court  
200 Lewis Ave  
Las Vegas Nevada 89155

89101-630000





ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

MR. CRISTOBAL BENAVIDES ,

Plaintiff(s),

vs.

STATE OF NEVADA; STATE APPT ATTY AMY  
COFFEE,

Defendant(s),

Case No: A-22-849801-W

Dept No: XVII

**CASE APPEAL STATEMENT**

1. Appellant(s): Cristobal Benavides

2. Judge: David Barker

3. Appellant(s): Cristobal Benavides

Counsel:

Cristobal Benavides #1219435  
P.O. Box 650  
Indian Springs, NV 89070

4. Respondent (s): State of Nevada; State Appt Atty Amy Coffee

Counsel:

Steven B. Wolfson, District Attorney  
200 Lewis Ave.

Las Vegas, NV 89155-2212

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, June 14, 2022  
*\*\*Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: N/A  
Date Application(s) filed: N/A

9. Date Commenced in District Court: March 16, 2022

10. Brief Description of the Nature of the Action: Civil Writ

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 8 day of September 2022.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Cristobal Benavides

## EIGHTH JUDICIAL DISTRICT COURT

# CASE SUMMARY

## CASE NO. A-22-849801-W

**Cristobal Benavides, Plaintiff(s)**  
**vs.**  
**Nevada State of, Defendant(s)**

§  
§  
§  
§  
§  
§

Location: **Department 17**  
 Judicial Officer: **Vacant, DC 17**  
 Filed on: **03/16/2022**  
 Case Number History:  
 Cross-Reference Case **A849801**  
 Number:  
 Defendant's Scope ID #: **1333191**

### CASE INFORMATION

**Related Cases**  
 C-18-331026-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

**Statistical Closures**  
 06/02/2022 Other Manner of Disposition

Case  
 Status: **06/02/2022 Closed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-22-849801-W  
 Court Department 17  
 Date Assigned 07/18/2022  
 Judicial Officer Vacant, DC 17

### PARTY INFORMATION

**Plaintiff Benavides, Cristobal**

*Lead Attorneys*

**Pro Se**

**Defendant Nevada State of**

**Afshar, John**  
*Retained*

702-671-2749(W)

**State Appointed Attorney Amy Coffee**


### DATE

### EVENTS & ORDERS OF THE COURT


### INDEX

#### EVENTS


03/16/2022

 Inmate Filed - Petition for Writ of Habeas Corpus  
*[1] Inmate Filed - Petition for Writ of Habeas Corpus*


03/25/2022

 Order  
*[3] Order for Petition for Writ of Habeas Corpus*


04/27/2022

 Response  
*[4] States Response to Petitioners Petition for Writ of Habeas Corpus (Post-Conviction)*


06/02/2022

 Findings of Fact, Conclusions of Law and Order  
*[5] Findings of Fact, Conclusions of Law and Order*

06/06/2022

 Notice of Entry of Findings of Fact, Conclusions of Law  
*[6] Notice of Entry of Findings of Fact, Conclusions of Law and Order*

06/08/2022

 Application to Proceed in Forma Pauperis  
 Filed By: Plaintiff Benavides, Cristobal

**CASE SUMMARY**  
**CASE NO. A-22-849801-W**

[7] Application to Proceed in Forma Pauperis

06/14/2022



Order to Proceed In Forma Pauperis  
Granted for: Plaintiff Benavides, Cristobal  
[8] Order to Proceed In Forma Pauperis

07/13/2022



Response  
Filed by: Plaintiff Benavides, Cristobal  
[9] Response to the Judgment of Petition for Writ of Habeas Corpus

07/18/2022

Administrative Reassignment - Judicial Officer Change  
Cases Reassigned from Judge Michael Villani to Vacant, DC 17

09/06/2022



Notice of Appeal  
[10] Notice of Appeal

09/08/2022



Case Appeal Statement  
Case Appeal Statement

**HEARINGS**

03/24/2022



**Minute Order (3:00 AM)** (Judicial Officer: Villani, Michael)  
Minute Order - No Hearing Held;  
Journal Entry Details:  
Order for Petition for Writ of Habeas Corpus was entered on March 18, 2022. COURT NOTES, Order was inadvertently filed without a hearing date entered onto the Order. COURT ORDERED, Order for Petition for Writ of Habeas Corpus is STRICKEN.;

05/25/2022



**Petition for Writ of Habeas Corpus (8:30 AM)** (Judicial Officer: Villani, Michael)

**MINUTES**

Denied;  
Journal Entry Details:  
Plaintiff not present. Court advised it was basing its decision on the pleadings on file herein; COURT ADOPTED the Procedural History as set forth by the State. Court FINDS the Petition is beyond the one year time limitation and Plaintiff did not establish good cause to waive the time bar, therefore COURT ORDERED, Petition DENIED. State to prepare the Findings of Fact, Conclusions of Law (FFCL). COURT FURTHER ORDERED, status check SET for the filing of the FFCL. Court advised the status check would be vacated once the FFCL was filed. NDC 06/22/22 8:30 AM STATUS CHECK: FFCL CLERK'S NOTE: A copy of this Minute Order was mailed to: Cristobal Benavides #1219435 PO Box 650 Indian Springs, NV 89070 (6/2/2022 SA);

**SCHEDULED HEARINGS**

**CANCELED Status Check: Status of Case (06/22/2022 at 8:30 AM)** (Judicial Officer: Villani, Michael)  
Vacated  
Status Check: FFCL

06/15/2022



**Minute Order (3:00 AM)** (Judicial Officer: Villani, Michael)  
Minute Order - No Hearing Held;  
Journal Entry Details:  
Status Check: FFCL set to come before the Court on the June 22, 2022 Calendar at 8:30 A.M. COURT NOTES, Findings of Fact, Conclusions of Law filed on June 6, 2022. COURT ORDERED, matter VACATED. CLERK'S NOTE: This Minute Order was mailed by Courtroom Clerk, Odalys Garcia, to Cristobal Benavides, #1219435 PO Box 650, Indian Springs, NV 89070; and emailed to John Afshar, john.niman@clarkcountyda.com; Briana Stutz, brianna.stutz@clarkcountyda.com; and Amy Coffee, amy.coffee@clarkcountynv.gov/ og (06/15/22);

06/22/2022

**CANCELED Status Check: Status of Case (8:30 AM)** (Judicial Officer: Villani, Michael)

**CASE SUMMARY**

**CASE NO. A-22-849801-W**

*Vacated*

*Status Check: FFCL*

# DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No.

(Assigned by Clerk's Office)

**Case A-22-849801-W**  
**Dept. 17**

## I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):

*Cristobal Benavides*

Defendant(s) (name/address/phone):

*State of Nevada*

Attorney (name/address/phone):

Attorney (name/address/phone):

## II. Nature of Controversy *(please select the one most applicable filing type below)*

### Civil Case Filing Types

<p><b>Real Property</b></p> <p><b>Landlord/Tenant</b></p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p><b>Title to Property</b></p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input type="checkbox"/> Other Title to Property</p> <p><b>Other Real Property</b></p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p>	<p><b>Negligence</b></p> <p><input type="checkbox"/> Auto</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Other Negligence</p> <p><b>Malpractice</b></p> <p><input type="checkbox"/> Medical/Dental</p> <p><input type="checkbox"/> Legal</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Other Malpractice</p>	<p><b>Torts</b></p> <p><b>Other Torts</b></p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p>
<p><b>Probate</b></p> <p><i>Probate (select case type and estate value)</i></p> <p><input type="checkbox"/> Summary Administration</p> <p><input type="checkbox"/> General Administration</p> <p><input type="checkbox"/> Special Administration</p> <p><input type="checkbox"/> Set Aside</p> <p><input type="checkbox"/> Trust/Conservatorship</p> <p><input type="checkbox"/> Other Probate</p> <p><b>Estate Value</b></p> <p><input type="checkbox"/> Over \$200,000</p> <p><input type="checkbox"/> Between \$100,000 and \$200,000</p> <p><input type="checkbox"/> Under \$100,000 or Unknown</p> <p><input type="checkbox"/> Under \$2,500</p>	<p><b>Construction Defect &amp; Contract</b></p> <p><b>Construction Defect</b></p> <p><input type="checkbox"/> Chapter 40</p> <p><input type="checkbox"/> Other Construction Defect</p> <p><b>Contract Case</b></p> <p><input type="checkbox"/> Uniform Commercial Code</p> <p><input type="checkbox"/> Building and Construction</p> <p><input type="checkbox"/> Insurance Carrier</p> <p><input type="checkbox"/> Commercial Instrument</p> <p><input type="checkbox"/> Collection of Accounts</p> <p><input type="checkbox"/> Employment Contract</p> <p><input type="checkbox"/> Other Contract</p>	<p><b>Judicial Review/Appeal</b></p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Foreclosure Mediation Case</p> <p><input type="checkbox"/> Petition to Seal Records</p> <p><input type="checkbox"/> Mental Competency</p> <p><b>Nevada State Agency Appeal</b></p> <p><input type="checkbox"/> Department of Motor Vehicle</p> <p><input type="checkbox"/> Worker's Compensation</p> <p><input type="checkbox"/> Other Nevada State Agency</p> <p><b>Appeal Other</b></p> <p><input type="checkbox"/> Appeal from Lower Court</p> <p><input type="checkbox"/> Other Judicial Review/Appeal</p>
<p><b>Civil Writ</b></p> <p><b>Civil Writ</b></p> <p><input checked="" type="checkbox"/> Writ of Habeas Corpus</p> <p><input checked="" type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p> <p><input type="checkbox"/> Writ of Prohibition</p> <p><input type="checkbox"/> Other Civil Writ</p>		<p><b>Other Civil Filing</b></p> <p><b>Other Civil Filing</b></p> <p><input type="checkbox"/> Compromise of Minor's Claim</p> <p><input type="checkbox"/> Foreign Judgment</p> <p><input type="checkbox"/> Other Civil Matters</p>

*Business Court filings should be filed using the Business Court civil coversheet.*

*3-16-2022*  
Date

**PREPARED BY CLERK**

Signature of initiating party or representative

*See other side for family-related case filings.*

*Heather S. Linn*  
CLERK OF THE COURT

**FFCO**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN AFSHAR  
Deputy District Attorney  
Nevada Bar #014408  
8200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

-vs-

**CRISTOBAL BENAVIDES,**  
**#1219435**  
Defendant.

CASE NO: **A-22-849801-W**  
**C-18-331026-1**

DEPT NO: **XVII**

**FINDINGS OF FACT, CONCLUSIONS OF**

**LAW AND ORDER**

DATE OF HEARING: **MAY 25, 2022**  
TIME OF HEARING: **8:30 AM**

THIS CAUSE presented before the Honorable MICHAEL VILLANI, District Judge,  
on the 25th day of May, 2022; Defendant not present, IN PROPER PERSON; Respondent  
represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through  
Deputy District Attorney BRIANNA STUTZ; and having considered the matter, including  
briefs, transcripts, and documents on file herein, the Court makes the following Findings of  
Fact and Conclusions of Law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On February 27, 2018, Petitioner Cristobal Benavides (hereinafter "Petitioner") was  
4 charged by way of Amended Criminal Complaint with four (4) counts of Lewdness With A  
5 Child Under The Age Of 14 (Category A Felony - NRS 201.230 - NOC 50975) and one (1)  
6 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony -  
7 NRS 200.364, 200.366 - NOC 50105).

8 Pursuant to a plea agreement negotiated by his private counsel, Mr. Bret Whipple,  
9 Petitioner unconditionally waived his right to a preliminary hearing in Justice Court and was  
10 bound over to District Court on April 3, 2018.

11 On April 4, 2018, the State filed an Information, charging Petitioner with one (1) count  
12 of Coercion Sexually Motivated (Category B Felony - NRS 207.190, 175.547, 207.193 - NOC  
13 55532) and one (1) count of Attempt Lewdness With A Child Under The Age Of 16 (Category  
14 C Felony - NRS 201.230, 193.330 - NOC 60321).

15 However, at his arraignment in District Court on April 23, 2018, Petitioner withdrew  
16 from the plea agreement and Mr. Bret Whipple withdrew as Petitioner's counsel. The Special  
17 Public Defender was appointed as Petitioner's counsel.

18 The State then filed an Amended Information on April 30, 2018, charging Petitioner  
19 with four (4) counts of Lewdness With A Child Under The Age Of 14 (Category A Felony -  
20 NRS 201.230 - NOC 50975) and one (1) count of Sexual Assault With A Minor Under  
21 Fourteen Years Of Age (Category A Felony - NRS 200.364, 200.366 - NOC 50105).<sup>1</sup>

22 On April 29, 2019, Petitioner proceeded to trial on the Amended Information.<sup>2</sup> Deputy  
23 Special Public Defenders Ms. Amy Coffee and Mr. Daniel Page served as Petitioner's trial  
24 counsel. On May 9, 2019, after nine (9) days of trial, the jury found Petitioner guilty of two  
25 (2) counts of Lewdness With A Child Under The Age Of 14 (Counts 3 and 5) and one (1)

26 <sup>1</sup> Pursuant to the plea agreement, two (2) lewdness charges in the Amended Criminal Complaint were to be dismissed as  
27 part of the negotiated plea agreement, but the State reinstated these charges after Petitioner withdrew from the plea  
agreement.

28 <sup>2</sup> The State filed a Second Amended Information on May 8, 2019, reflecting that Petitioner committed the crimes on or  
between June 26, 2017 and July 17, 2017.

1 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Count 4). The jury  
2 found Petitioner not guilty of two (2) counts of Lewdness With A Child Under The Age Of 14  
3 (Counts 1 and 2).

4 On June 26, 2019, Petitioner received an aggregate sentence of life with the possibility  
5 of parole after fifty-five (55) years, with five hundred five (505) days credit for time served.  
6 Additionally, a sentence of lifetime supervision was imposed to commence upon release from  
7 any term of probation, parole, or imprisonment. Petitioner's Judgment of Conviction was filed  
8 on July 8, 2019.

9 On October 21, 2020, the Nevada Court of Appeals affirmed Petitioner's conviction.  
10 Remittitur issued on November 16, 2020.

11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction) (hereinafter  
12 "Petition") on March 16, 2022. The State filed a response on April 27, 2022. Petitioner did not  
13 file a reply. On May 25, 2022, this Court denied the Petition for the following reasons.

#### 14 **STATEMENT OF FACTS**

15 Petitioner's Presentence Investigation Report (hereinafter "PSI") summarized the facts  
16 of the crime as follows:

17 On July 19, 2017, officers responded to a local hospital in reference  
18 to Child Molestation. The victim's mother informed officers that her  
19 family was staying at her boyfriend's parents' home. On July 17,  
20 2017, her boyfriend's father, identified as the defendant, Cristobal  
21 Benavides, suggested her children watch a DVD in the bedroom. Her  
22 youngest child became fussy and Mr. Benavides stated he would rock  
23 her to calm her down. The victim's mother peeked in the room a  
24 couple of times and saw Mr. Benavides holding her youngest child,  
lying next to the victim. When Mr. Benavides and his wife left the  
residence, the victim informed her mother that Mr. Benavides was  
touching her private area. The victim's mother quickly left the house  
and when she was back at her residence; the victim added Mr.  
Benavides would stick his fingers in her private area, inside her, take  
them out, lick them, smell them and would do this repeatedly. The  
victim was transported by her mother to the hospital.

25 On July 27, 2017, during a forensic interview the victim stated, "My  
26 dad's dad did something bad to me" after being asked why she was  
there. When asked to elaborate, she was uncomfortable speaking and  
wrote on paper, "He sqsht my pepe," and "He squisht my privit that  
27 is ol." She showed the paper to the interviewer and stated, "This is  
28 what I wrote...can you read it? This is what his dad did." The victim  
later described the incident stating she was watching a movie with her  
siblings on the defendant's bed and Mr. Benavides touched her private

on top of her shorts with his hand. She began opening and closing her hand and said Mr. Benavides “squished.” The victim told him to stop and he told her he would. Mr. Benavides put his hand under her shorts and touched her private over her underwear, then put his hand inside her underwear and inserted two fingers of his right hand into her private. Mr. Benavides pulled his fingers out of her private and licked both fingers one by one. The victim looked at him and he winked at her.

The victim stated it hurt when the defendant’s fingers were in her private, “it felt like something was biting me,” and she felt the pain, “in the middle of my private, like, where I pee.” When her sister left the room for some water, the defendant kissed her on her private over her shorts. The victim stated this was the third incident of Mr. Benavides touching her.

The victim described the first incident in which Mr. Benavides touched her. The victim was in the bedroom alone with Mr. Benavides. She was watching a show on the floor then moved to the bed. Mr. Benavides made a motion she took to mean “come over here.” She went over and he pulled her arm so she was close to him. She was lying on the bed and he was sitting. He then squished her private over her pajama shorts. She did not know what made him stop touching her private. In the second incident, the victim and her older sister were in the defendant’s room trying to take a nap. The victim was lying on her side and Mr. Benavides was behind her touching her on the side like he was trying to get her closer to him. He touched her butt, then her side, then squished her private with is hand, over her clothes.

PSI 5.

### ANALYSIS

#### **I. THE PETITION IS PROCEDURALLY TIME-BARRED AND PETITIONER HAS FAILED TO SHOW GOOD CAUSE OR PREJUDICE TO OVERCOME PROCEDURAL BARS**

The Petition is procedurally time-barred, as it was not filed within the one-year statutory limit after the Nevada Court of Appeals issued its remittitur. Additionally, Petitioner has failed to show good cause or prejudice to overcome procedural bars. Therefore, this Court denies the Petition.

#### **A. NRS 34.726(1): Limitations On Time To File**

As aptly explained by NRS 34.726(1):

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur. For the purposes of this subsection, good cause

for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

NRS 34.726(1)(a)(b).

The one-year time bar of NRS 34.726(1) is strictly construed. Gonzales v. State, 118 Nev. 590, 593-596, 53 P.3d 901, 902-904 (2002) (rejected post-conviction petition filed two days late pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). The Nevada Supreme Court has held that NRS 34.726(1) should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). The one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

Petitioner failed to file prior to the one-year deadline. Remittitur issued from Petitioner’s appeal on November 16, 2020. As such, Petitioner had until November 16, 2021 to file a timely habeas petition. Petitioner filed the instant Petition on March 16, 2022.<sup>3</sup> Accordingly, the Petition was filed four (4) months after Petitioner’s one-year deadline. Therefore, the Petition is time-barred, and this Court must deny the Petition absent a showing of good cause and prejudice.

### **B. Application of Procedural Bars is Mandatory**

The Nevada Supreme Court has held that the district court has a *duty* to consider whether post-conviction claims are procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court found that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory,” noting:

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<sup>3</sup> The Petition was received by the district court on March 3, 2022. Petition at 1. It was not filed until March 16, 2022. Id. NRS 34.726 says a petition “must be filed within 1 year” of remittitur issuing, but even if the earlier received date controlled the Petition is untimely.

1 Habeas corpus petitions that are filed many years after conviction are  
2 an unreasonable burden on the criminal justice system. The necessity  
3 for a workable system dictates that there must exist a time when a  
criminal conviction is final.

4 Id. Additionally, the Court held that procedural bars “cannot be ignored [by the district court]  
5 when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court  
6 has granted no discretion to the district courts regarding whether to apply the statutory  
7 procedural bars; the rules must be applied.

8 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).  
9 There the Court ruled that the defendant’s petition was “untimely, successive, and an abuse of  
10 the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324, 307  
11 P.3d at 326. Accordingly, the Court reversed the district court and ordered the defendant’s  
12 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23. The  
13 procedural bars are so fundamental to the post-conviction process that they must be applied  
14 by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

15 **C. Petitioner Has Failed To Show Good Cause or Prejudice to Overcome**  
16 **Procedural Bars**

17 Petitioner’s failure to prove good cause or prejudice requires the dismissal of the  
18 Petition. To avoid procedural default, a petitioner has the burden of pleading and proving  
19 specific facts that demonstrate good cause for his failure to present his claim in earlier  
20 proceedings or comply with the statutory requirements. See Hogan, 109 Nev. at 959-60, 860  
21 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305. “To establish good cause, appellants  
22 *must* show that an impediment external to the defense prevented their compliance with the  
23 applicable procedural rule.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)  
24 (emphasis added); see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003);  
25 Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external impediment could be “that the  
26 factual or legal basis for a claim was not reasonably available to counsel, or that ‘some  
27 interference by officials’ made compliance impracticable.” Hathaway, 119 Nev. at 251, 71  
28 P.3d at 506 (*quoting Murray v. Carrier*, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986)); see

1 also Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (*citing* Harris v. Warden, 114 Nev. 956, 959-  
2 60 n.4, 964 P.2d 785 n.4 (1998)). Any delay in filing of the petition must not be the fault of  
3 the petitioner. NRS 34.726(1)(a).

4 The Nevada Supreme Court has clarified that, a petitioner cannot attempt to  
5 manufacture good cause. See Clem, 119 Nev. at 621, 81 P.3d at 526. To find good cause there  
6 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251, 71  
7 P.3d at 506; (*quoting* Colley v. State, 105 Nev. at 236, 773 P.2d at 1230). Excuses such as the  
8 lack of assistance of counsel when preparing a petition, as well as the failure of trial counsel  
9 to forward a copy of the file to a petitioner have been found not to constitute good cause. See  
10 Phelps, 104 Nev. at 660, 764 P.2d at 1306, superseded by statute on other grounds as  
11 recognized in Nika v. State, 120 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); Hood v. State,  
12 111 Nev. 335, 890 P.2d 797 (1995).

13 Further, a petitioner raising good cause to excuse procedural bars must do so within a  
14 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34  
15 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see  
16 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506–07 (stating that a claim reasonably  
17 available to the petitioner during the statutory time period did not constitute good cause to  
18 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good  
19 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S. 446,  
20 453 120 S.Ct. 1587, 1592 (2000).

21 To demonstrate prejudice to overcome the procedural bars, a petitioner must show “not  
22 merely that the errors of [the proceeding] created possibility of prejudice, but that they worked  
23 to his actual and substantial disadvantage, in affecting the state proceedings with error of  
24 constitutional dimensions.” Hogan v Warden, 109 Nev. at 960, 860 P.2d at 716 (internal  
25 quotation omitted), Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545.

26 Here, Petitioner has failed to establish any good cause for why these claims should be  
27 considered. Petitioner has not alleged, much less shown, that he has suffered an impediment  
28 external to the defense. Nor has Petitioner shown a new factual or legal basis for these claims

1 that was unavailable at the time of his direct appeal. See Clem v. State, 119 Nev. 615, 621, 81  
2 P.3d 521, 525 (2003). Accordingly, Petitioner has failed to show good cause or prejudice.

3 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner  
4 had all the facts and law necessary to timely allege his four (4) claims. For instance,  
5 Petitioner's first claim alleges ineffective assistance of trial and appellate counsel regarding  
6 jury instructions and trial strategies, and all of the facts and law necessary to make the claim  
7 in a timely manner have been available since the jury trial concluded on May 9, 2019, or since  
8 remittitur issued from the appeal on November 16, 2020. See Petition 6. Similarly, Petitioner's  
9 second claim alleges ineffective assistance of appellate counsel, and all the facts and law  
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11 See Petition 7. Petitioner's third claim alleges ineffective assistance of trial counsel for failing  
12 to file a motion and call a witness, and all the facts and law necessary to make the claim in a  
13 timely manner have likewise been available since the jury trial concluded. See Petition 8.  
14 Lastly, Petitioner's fourth claim is cumulative error; however, the Nevada Supreme Court has  
15 never held that instances of ineffective assistance of counsel can be cumulated. Even if it could,  
16 it does not demonstrate good cause. See Petition 9. Petitioner was able to timely file the  
17 Petition but did not. The Petition is procedurally time-barred and Petitioner has failed to show  
18 good cause or prejudice to overcome procedural bars.

19 **ORDER**

20 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction  
21 Relief shall be and is DENIED.

22 Dated this 2nd day of June, 2022

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

25 BY

26   
JOHN AFSHAR  
27 Deputy District Attorney  
Nevada Bar #14408

for

CCB 051 0074 B4AC  
David Barker  
District Court Judge

28 hjc/SVU

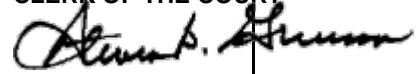
1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Cristobal Benavides, Plaintiff(s) | CASE NO: A-22-849801-W  
7 vs. | DEPT. NO. Department 17  
8 Nevada State of, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4  
5 CRISTOBAL BENAVIDES,

6 Petitioner,

7 vs.

8 STATE OF NEVADA; ET.AL.,

9 Respondent,

Case No: A-22-849801-W

Dept No: XVII

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

11 **PLEASE TAKE NOTICE** that on June 2, 2022, the court entered a decision or order in this matter, a true  
12 and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed  
to you. This notice was mailed on June 6, 2022.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

17 Amanda Hampton, Deputy Clerk

18  
19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 6 day of June 2022, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

22 Clark County District Attorney's Office  
23 Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:

25 Cristobal Benavides # 1219435  
26 P.O. Box 650  
27 Indian Springs, NV 89070

28 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**FFCO**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN AFSHAR  
Deputy District Attorney  
Nevada Bar #014408  
8200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

-vs-

**CRISTOBAL BENAVIDES,**  
**#1219435**  
Defendant.

CASE NO: **A-22-849801-W**  
**C-18-331026-1**

DEPT NO: **XVII**

**FINDINGS OF FACT, CONCLUSIONS OF**  
**LAW AND ORDER**

DATE OF HEARING: **MAY 25, 2022**  
TIME OF HEARING: **8:30 AM**

THIS CAUSE presented before the Honorable MICHAEL VILLANI, District Judge,  
on the 25th day of May, 2022; Defendant not present, IN PROPER PERSON; Respondent  
represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through  
Deputy District Attorney BRIANNA STUTZ; and having considered the matter, including  
briefs, transcripts, and documents on file herein, the Court makes the following Findings of  
Fact and Conclusions of Law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On February 27, 2018, Petitioner Cristobal Benavides (hereinafter "Petitioner") was  
4 charged by way of Amended Criminal Complaint with four (4) counts of Lewdness With A  
5 Child Under The Age Of 14 (Category A Felony - NRS 201.230 - NOC 50975) and one (1)  
6 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Category A Felony -  
7 NRS 200.364, 200.366 - NOC 50105).

8 Pursuant to a plea agreement negotiated by his private counsel, Mr. Bret Whipple,  
9 Petitioner unconditionally waived his right to a preliminary hearing in Justice Court and was  
10 bound over to District Court on April 3, 2018.

11 On April 4, 2018, the State filed an Information, charging Petitioner with one (1) count  
12 of Coercion Sexually Motivated (Category B Felony - NRS 207.190, 175.547, 207.193 - NOC  
13 55532) and one (1) count of Attempt Lewdness With A Child Under The Age Of 16 (Category  
14 C Felony - NRS 201.230, 193.330 - NOC 60321).

15 However, at his arraignment in District Court on April 23, 2018, Petitioner withdrew  
16 from the plea agreement and Mr. Bret Whipple withdrew as Petitioner's counsel. The Special  
17 Public Defender was appointed as Petitioner's counsel.

18 The State then filed an Amended Information on April 30, 2018, charging Petitioner  
19 with four (4) counts of Lewdness With A Child Under The Age Of 14 (Category A Felony -  
20 NRS 201.230 - NOC 50975) and one (1) count of Sexual Assault With A Minor Under  
21 Fourteen Years Of Age (Category A Felony - NRS 200.364, 200.366 - NOC 50105).<sup>1</sup>

22 On April 29, 2019, Petitioner proceeded to trial on the Amended Information.<sup>2</sup> Deputy  
23 Special Public Defenders Ms. Amy Coffee and Mr. Daniel Page served as Petitioner's trial  
24 counsel. On May 9, 2019, after nine (9) days of trial, the jury found Petitioner guilty of two  
25 (2) counts of Lewdness With A Child Under The Age Of 14 (Counts 3 and 5) and one (1)

26 <sup>1</sup> Pursuant to the plea agreement, two (2) lewdness charges in the Amended Criminal Complaint were to be dismissed as  
27 part of the negotiated plea agreement, but the State reinstated these charges after Petitioner withdrew from the plea  
agreement.

28 <sup>2</sup> The State filed a Second Amended Information on May 8, 2019, reflecting that Petitioner committed the crimes on or  
between June 26, 2017 and July 17, 2017.

1 count of Sexual Assault With A Minor Under Fourteen Years Of Age (Count 4). The jury  
2 found Petitioner not guilty of two (2) counts of Lewdness With A Child Under The Age Of 14  
3 (Counts 1 and 2).

4 On June 26, 2019, Petitioner received an aggregate sentence of life with the possibility  
5 of parole after fifty-five (55) years, with five hundred five (505) days credit for time served.  
6 Additionally, a sentence of lifetime supervision was imposed to commence upon release from  
7 any term of probation, parole, or imprisonment. Petitioner's Judgment of Conviction was filed  
8 on July 8, 2019.

9 On October 21, 2020, the Nevada Court of Appeals affirmed Petitioner's conviction.  
10 Remittitur issued on November 16, 2020.

11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction) (hereinafter  
12 "Petition") on March 16, 2022. The State filed a response on April 27, 2022. Petitioner did not  
13 file a reply. On May 25, 2022, this Court denied the Petition for the following reasons.

#### 14 **STATEMENT OF FACTS**

15 Petitioner's Presentence Investigation Report (hereinafter "PSI") summarized the facts  
16 of the crime as follows:

17 On July 19, 2017, officers responded to a local hospital in reference  
18 to Child Molestation. The victim's mother informed officers that her  
19 family was staying at her boyfriend's parents' home. On July 17,  
20 2017, her boyfriend's father, identified as the defendant, Cristobal  
21 Benavides, suggested her children watch a DVD in the bedroom. Her  
22 youngest child became fussy and Mr. Benavides stated he would rock  
23 her to calm her down. The victim's mother peeked in the room a  
24 couple of times and saw Mr. Benavides holding her youngest child,  
lying next to the victim. When Mr. Benavides and his wife left the  
residence, the victim informed her mother that Mr. Benavides was  
touching her private area. The victim's mother quickly left the house  
and when she was back at her residence; the victim added Mr.  
Benavides would stick his fingers in her private area, inside her, take  
them out, lick them, smell them and would do this repeatedly. The  
victim was transported by her mother to the hospital.

25 On July 27, 2017, during a forensic interview the victim stated, "My  
26 dad's dad did something bad to me" after being asked why she was  
there. When asked to elaborate, she was uncomfortable speaking and  
wrote on paper, "He sqsht my pepe," and "He squisht my privit that  
27 is ol." She showed the paper to the interviewer and stated, "This is  
28 what I wrote...can you read it? This is what his dad did." The victim  
later described the incident stating she was watching a movie with her  
siblings on the defendant's bed and Mr. Benavides touched her private

on top of her shorts with his hand. She began opening and closing her hand and said Mr. Benavides “squished.” The victim told him to stop and he told her he would. Mr. Benavides put his hand under her shorts and touched her private over her underwear, then put his hand inside her underwear and inserted two fingers of his right hand into her private. Mr. Benavides pulled his fingers out of her private and licked both fingers one by one. The victim looked at him and he winked at her.

The victim stated it hurt when the defendant’s fingers were in her private, “it felt like something was biting me,” and she felt the pain, “in the middle of my private, like, where I pee.” When her sister left the room for some water, the defendant kissed her on her private over her shorts. The victim stated this was the third incident of Mr. Benavides touching her.

The victim described the first incident in which Mr. Benavides touched her. The victim was in the bedroom alone with Mr. Benavides. She was watching a show on the floor then moved to the bed. Mr. Benavides made a motion she took to mean “come over here.” She went over and he pulled her arm so she was close to him. She was lying on the bed and he was sitting. He then squished her private over her pajama shorts. She did not know what made him stop touching her private. In the second incident, the victim and her older sister were in the defendant’s room trying to take a nap. The victim was lying on her side and Mr. Benavides was behind her touching her on the side like he was trying to get her closer to him. He touched her butt, then her side, then squished her private with is hand, over her clothes.

PSI 5.

### ANALYSIS

#### **I. THE PETITION IS PROCEDURALLY TIME-BARRED AND PETITIONER HAS FAILED TO SHOW GOOD CAUSE OR PREJUDICE TO OVERCOME PROCEDURAL BARS**

The Petition is procedurally time-barred, as it was not filed within the one-year statutory limit after the Nevada Court of Appeals issued its remittitur. Additionally, Petitioner has failed to show good cause or prejudice to overcome procedural bars. Therefore, this Court denies the Petition.

#### **A. NRS 34.726(1): Limitations On Time To File**

As aptly explained by NRS 34.726(1):

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur. For the purposes of this subsection, good cause

for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

NRS 34.726(1)(a)(b).

The one-year time bar of NRS 34.726(1) is strictly construed. Gonzales v. State, 118 Nev. 590, 593-596, 53 P.3d 901, 902-904 (2002) (rejected post-conviction petition filed two days late pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). The Nevada Supreme Court has held that NRS 34.726(1) should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). The one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

Petitioner failed to file prior to the one-year deadline. Remittitur issued from Petitioner’s appeal on November 16, 2020. As such, Petitioner had until November 16, 2021 to file a timely habeas petition. Petitioner filed the instant Petition on March 16, 2022.<sup>3</sup> Accordingly, the Petition was filed four (4) months after Petitioner’s one-year deadline. Therefore, the Petition is time-barred, and this Court must deny the Petition absent a showing of good cause and prejudice.

### **B. Application of Procedural Bars is Mandatory**

The Nevada Supreme Court has held that the district court has a *duty* to consider whether post-conviction claims are procedurally barred. State v. Eighth Judicial District Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court found that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory,” noting:

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<sup>3</sup> The Petition was received by the district court on March 3, 2022. Petition at 1. It was not filed until March 16, 2022. Id. NRS 34.726 says a petition “must be filed within 1 year” of remittitur issuing, but even if the earlier received date controlled the Petition is untimely.

1 Habeas corpus petitions that are filed many years after conviction are  
2 an unreasonable burden on the criminal justice system. The necessity  
3 for a workable system dictates that there must exist a time when a  
criminal conviction is final.

4 Id. Additionally, the Court held that procedural bars “cannot be ignored [by the district court]  
5 when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court  
6 has granted no discretion to the district courts regarding whether to apply the statutory  
7 procedural bars; the rules must be applied.

8 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).  
9 There the Court ruled that the defendant’s petition was “untimely, successive, and an abuse of  
10 the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324, 307  
11 P.3d at 326. Accordingly, the Court reversed the district court and ordered the defendant’s  
12 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23. The  
13 procedural bars are so fundamental to the post-conviction process that they must be applied  
14 by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

15 **C. Petitioner Has Failed To Show Good Cause or Prejudice to Overcome**  
16 **Procedural Bars**

17 Petitioner’s failure to prove good cause or prejudice requires the dismissal of the  
18 Petition. To avoid procedural default, a petitioner has the burden of pleading and proving  
19 specific facts that demonstrate good cause for his failure to present his claim in earlier  
20 proceedings or comply with the statutory requirements. See Hogan, 109 Nev. at 959-60, 860  
21 P.2d at 715-16; Phelps, 104 Nev. at 659, 764 P.2d at 1305. “To establish good cause, appellants  
22 *must* show that an impediment external to the defense prevented their compliance with the  
23 applicable procedural rule.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)  
24 (emphasis added); see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003);  
25 Pellegrini, 117 Nev. at 887, 34 P.3d at 537. Such an external impediment could be “that the  
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17 available to the petitioner during the statutory time period did not constitute good cause to  
18 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good  
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23 to his actual and substantial disadvantage, in affecting the state proceedings with error of  
24 constitutional dimensions.” Hogan v Warden, 109 Nev. at 960, 860 P.2d at 716 (internal  
25 quotation omitted), Little v. Warden, 117 Nev. 845, 853, 34 P.3d 540, 545.

26 Here, Petitioner has failed to establish any good cause for why these claims should be  
27 considered. Petitioner has not alleged, much less shown, that he has suffered an impediment  
28 external to the defense. Nor has Petitioner shown a new factual or legal basis for these claims

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2 P.3d 521, 525 (2003). Accordingly, Petitioner has failed to show good cause or prejudice.

3 Even if Petitioner did address the issue, good cause cannot be demonstrated. Petitioner  
4 had all the facts and law necessary to timely allege his four (4) claims. For instance,  
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14 Lastly, Petitioner's fourth claim is cumulative error; however, the Nevada Supreme Court has  
15 never held that instances of ineffective assistance of counsel can be cumulated. Even if it could,  
16 it does not demonstrate good cause. See Petition 9. Petitioner was able to timely file the  
17 Petition but did not. The Petition is procedurally time-barred and Petitioner has failed to show  
18 good cause or prejudice to overcome procedural bars.

19 **ORDER**

20 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction  
21 Relief shall be and is DENIED.

22 Dated this 2nd day of June, 2022

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

25 BY

26   
JOHN AFSHAR  
27 Deputy District Attorney  
Nevada Bar #14408

for

CCB 051 0074 B4AC  
David Barker  
District Court Judge

28 hjc/SVU

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Cristobal Benavides, Plaintiff(s) | CASE NO: A-22-849801-W  
7 vs. | DEPT. NO. Department 17  
8 Nevada State of, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's  
12 electronic filing system, but there were no registered users on the case. The filer has been  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**March 24, 2022**

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A-22-849801-W      Cristobal Benavides, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**March 24, 2022      3:00 AM      Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Samantha Albrecht

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Order for Petition for Writ of Habeas Corpus was entered on March 18, 2022. COURT NOTES, Order was inadvertently filed without a hearing date entered onto the Order. COURT ORDERED, Order for Petition for Writ of Habeas Corpus is STRICKEN.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**May 25, 2022**

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A-22-849801-W      Cristobal Benavides, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**May 25, 2022      8:30 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht  
Odalys Garcia

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:** Nevada State of      Defendant  
Stutz, Brianna Vega      Attorney

**JOURNAL ENTRIES**

- Plaintiff not present.

Court advised it was basing its decision on the pleadings on file herein; COURT ADOPTED the Procedural History as set forth by the State. Court FINDS the Petition is beyond the one year time limitation and Plaintiff did not establish good cause to waive the time bar, therefore COURT ORDERED, Petition DENIED. State to prepare the Findings of Fact, Conclusions of Law (FFCL). COURT FURTHER ORDERED, status check SET for the filing of the FFCL. Court advised the status check would be vacated once the FFCL was filed.

NDC

06/22/22 8:30 AM STATUS CHECK: FFCL

CLERK'S NOTE: A copy of this Minute Order was mailed to: Cristobal Benavides #1219435 PO Box 650 Indian Springs, NV 89070 (6/2/2022 SA)

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

## Writ of Habeas Corpus

## COURT MINUTES

**June 15, 2022**

A-22-849801-W      Cristobal Benavides, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

**June 15, 2022**      **3:00 AM**      **Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Odalys Garcia

**RECORDED:**

**REPORTER:**

## PARTIES

**PRESENT:**

## JOURNAL ENTRIES

- Status Check: FFCL set to come before the Court on the June 22, 2022 Calendar at 8:30 A.M. COURT NOTES, Findings of Fact, Conclusions of Law filed on June 6, 2022. COURT ORDERED, matter VACATED.

CLERK'S NOTE: This Minute Order was mailed by Courtroom Clerk, Odalys Garcia, to Cristobal Benavides, #1219435 PO Box 650, Indian Springs, NV 89070; and emailed to John Afshar, john.niman@clarkcountyda.com; Briana Stutz, brianna.stutz@clarkcountyda.com; and Amy Coffee, amy.coffee@clarkcountynv.gov/ og (06/15/22)

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES

MR. CRISTOBAL BENAVIDES,

Plaintiff(s),

vs.

STATE OF NEVADA; STATE APPT ATTY  
AMY COFFEE,

Defendant(s),

Case No: A-22-849801-W

Dept No: XVII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 8 day of September 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk