

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

2   PETER JASON HELFRICH                   )

3       Appellant,                               )

4       vs.                                        )

5   THE FIFTH JUDICIAL DISTRICT           )  
6   COURT OF THE STATE OF NEVADA,       )  
7   IN AND FOR THE COUNTY OF NYE;       )  
8   AND THE HONORABLE DAVID R.           )  
9   GAMBLE, SENIOR JUDGE,                )

10       Respondent.                           )

11                   **RESPONDENT FIFTH JUDICIALDISTRICT COURT'S ANSWER TO**

12                   **PETITION FOR WRIT OF MANDAMUS/PROHIBITION**

13   **ATTORNEY FOR APPELLANT   ATTORNEYS FOR RESPONDENTS**

14   PETER JASON HELFICH#1111875   BRIAN T. KUNZI  
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                    Carson City, NV 89701

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**FACTS AND PROCEDURAL HISTORY**

On April 8, 2021, Petitioner Helfrich pleaded no contest guilty to the offense of Battery with a Deadly Weapon pursuant to a Guilty Plea Agreement Executed on April 7, 2021. (Case summary APPX 002-006 at APPX 003). The No Contest Plea Agreement is at APPX 007-021.

**ARGUMENT**

In reviewing the Fifth Judicial District Court file in Case No. CR20-0145A, it appears that Petitioner had waived his right to complain of the Presentence Investigation Report when he filed his *Affidavit of Indigent Petition for Writ of Habeas Corpus* on September 10, 2021 because it was untimely.

1 Mr. Helfrich's sentencing took place on July 27, 2021. His *Affidavit of*  
2 *Indigent Petition for Writ of Habeas Corpus* ("Affidavit") complaining about the  
3 deficiencies in the PSI was not filed until September 10, 2021. Furthermore, there  
4 does not appear to be a filed Proof of Service or Certificate of Service for this  
5 pleading in the file. The Fifth Judicial District Court clerk is not responsible for  
6 service of any such pleading.

7 It is this Respondent's belief that Mr. Helfrich's Affidavit was not timely  
8 filed. It has been held by this Court that the failure to challenge any inaccuracies at  
9 or before the time of sentencing waive any such challenge after a defendant is  
10 sentenced. See Stockmeier v. State 127 Nev. 243255 P.3d 209 (2011).

11 It is this Respondent's belief that the Fifth Judicial District Court would not  
12 have jurisdiction over the matters complained of in Mr. Helfrich's

13 DECLARATION IN SUPPORT OF AFFIANT'S (EMERGENCY) MOTION  
14 FOR A TEMPORARY RESTRAINING ORDER & PRELIMINARY

15 INJUNCTION. Mr. Helfrich alleges that the Acting Warden of the High Desert  
16 Prison and the Nevada Department of Corrections have withheld and/or destroyed  
17 Helfrich's papers and records. Such a complaint should either be brought in Clark  
18 County or Carson City according to NRS 13.020 which reads as follows:

19 **NRS 13.020 Venue of actions for recovery of penalties and forfeitures; actions against public**  
20 **officers; actions against State of Nevada.** Actions for the following causes must be tried in the county  
where the cause, or some part thereof, arose, subject to the power of the court to change the place of trial:  
1. For the recovery of a penalty or forfeiture imposed by statute; except, that when it is imposed for an  
offense committed on a lake, river or other stream of water, situated in two or more counties, the action may

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**DATED** this 6th day of February 2023.

By Bradley J. Richardson  
Bradley J. Richardson  
Nevada Bar No. 1159  
Chief Deputy District Attorney

1                                   **CERTIFICATE OF COMPLIANCE**

2           I hereby certify that I have read this appellate brief, and to the best of my  
3 knowledge, information, and belief, it is not frivolous or interposed for any improper  
4 purpose. I further certify that this brief complies with all applicable Nevada Rules  
5 of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in  
6 the brief regarding matters in the record to be supported by appropriate references  
7 to the record on appeal. I understand that I may be subject to sanctions in the event  
8 that the accompanying brief is not in conformity with the requirements of the Nevada  
9 Rules of Appellate Procedure.

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1 reference to the page and volume number, if any, of the transcript or appendix where  
2 the matter relied on is to be found. I understand that I may be subject to sanctions in  
3 the event that the accompanying brief is not in conformity with the requirements of  
4 the Nevada Rules of Appellate Procedure.

5 DATED this 6th day of February 2023.

6 BRIAN T. KUNZI  
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8 NYE COUNTY DISTRICT ATTORNEY  
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10 Tonopah, NV 89049  
11 Attorney for Respondents

12 By Bradley J. Richardson  
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15 CHIEF DEPUTY DISTRICT ATTORNEY  
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District Attorney, P. O. Box 593, Tonopah, NV 89049, do hereby certify that on

**BRIEF** and **RESPONDENT'S APPENDIX** to be served via Nevada Supreme

**Court's E-Flex e-filing system to the following:**

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