

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.           )

**Supreme Court Case No.: 85505**

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Clerk of Supreme Court

11           **AMENDED RESPONDENT FIFTH JUDICIAL DISTRICT COURT'S**

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

13   **ATTORNEY FOR APPELLANT   ATTORNEYS FOR RESPONDENTS**

14   PETER JASON HELFICH#1111875  
15   High Desert State Prison  
16   PO Box 650  
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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. It has been held by  
4 this Court that the failure to challenge any inaccuracies at or before the time of  
5 sentencing waive any such challenge after a defendant is sentenced. See  
6 Stockmeier v. State 127 Nev. 243255 P.3d 209 (2011).

7 With regard to Mr. Helfrich's DECLARATION IN SUPPORT OF  
8 AFFIANT'S (EMERGENCY) MOTION FOR A TEMPORARY RESTRAINING  
9 ORDER & PRELIMINARY INJUNCTION it is this Respondent's contention that  
10 the Fifth Judicial District Court would not have jurisdiction over the matters  
11 complained of. Mr. Helfrich alleges that the Acting Warden of the High Desert  
12 Prison and the Nevada Department of Corrections have withheld and/or destroyed  
13 Helfrich's papers and records. Such a complaint should either be brought in Clark  
14 County or Carson City according to NRS 13.020 which reads as follows:

15 **NRS 13.020 Venue of actions for recovery of penalties and forfeitures; actions against public**  
16 **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:

17 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  
be brought in any county bordering on such lake, river or stream, and opposite to the place where the offense  
was committed.

18 2. Against a public officer, or person especially appointed to execute the duties of a public officer, for an  
act done by him or her in virtue of the office, or against a person who, by his or her command, or in his or  
her aid, does anything touching the duties of the officer.

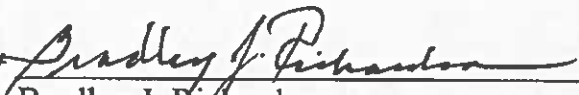
19 3. Against the State of Nevada or any agency of the State for any tort action, except that any such tort  
action may also be brought in Carson City.

1 **CONCLUSION**

2 Respondent, the Nye County District Attorney's Office on behalf of the  
3 Fifth Judicial District Court Clerk, requests that the Petition be denied in its  
4 entirety.

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

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10 By   
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12 Nevada Bar No. 1159  
13 Chief Deputy District Attorney  
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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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## VERIFICATION

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ This brief has been prepared in a proportionally spaced typeface using Microsoft Word 97-2003 in Times New Roman, 14 pt. font; or

☐ This brief has been prepared in a monospaced typeface using Microsoft Word 97-2003 in \_\_\_\_\_ with *[state number of characters per inch and name of type style]*.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☐ Proportionately spaced, has a typeface of 14 points or more and contains \_\_\_\_\_ words; or

☐ Monospaced, has 10.5 or fewer characters per inch, and contains \_\_\_\_ words or \_\_\_\_ lines of text; or

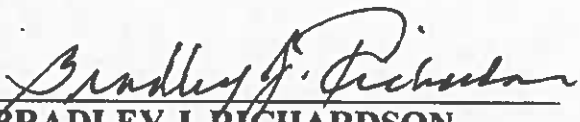
☒ Does not exceed 30 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a

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.

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