

1 STEVEN FLOYD VOSS #5209V
2 Northern Nevada Correctional Center
3 Post Office Box #700
4 Carson City, Nevada 89702-7000
5

FILED
DEC 28 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
CHIEF DEPUTY CLERK

6 IN THE SUPREME COURT OF THE STATE OF NEVADA
7

8 STEVEN FLOYD VOSS	No. 85687
9 Appellant,	
10 VS.	
11 THE STATE OF NEVADA,	
12 Respondent.	
13	

14
15 PETITION FOR REHEARING
16

17 COMES NOW, STEVEN FLOYD VOSS, by and
18 through his proper person, and hereby submits
19 the instant Petition For Rehearing.

20 The instant Petition For Rehearing is made
21 and is predicated upon the attached memorandum
22 of points and authorities and the complete
23 District Court Record in Case Number: CR96-1581
24
25

26 RECEIVED
27 DEC 27 2022
28 ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

MEMORANDUM OF POINTS AND AUTHORITIES

I. Nature of Petition:

The instant Petition For Rehearing is brought pursuant to N.R.A.P. Rule , and thereby the Appellant seeks the Court's rehearing of the instant appeal and the Court's reconsideration of the Court's Order Dismissing Appeal, Docket No. 22-39552, filed December 16, 2022,

II. statement of Relevant Facts:

On April 7, 2022 the Second Judicial District Court, Judge Kathleen M. Drakulich, had, sua sponte, issued an Amended Judgment of Conviction in Case Number: CR96-1581. However, the Court neglected to serve the Appellant a copy of the Amended Judgment of Conviction within the 33 day time period for the timely filing of a Notice of Appeal.

On May 2, 2022 the District Court had issued an Order Denying Motion To Correct Illegal Sentence As Moot, wherein, the Court had referenced the Court's April 7, 2022 Amended Judgment of Conviction as the basis for its finding the Appellant's Motion moot.

1 On or about May 10, 2022 the Appellant
2 had received service of the District Court's
3 above referenced Order Denying Motion To
4 Correct Illegal Sentence As Moot. Upon the
5 Appellant's reading of the Court's Order
6 the Appellant first became aware of the
7 District Court's contention of the issuance of
8 an Amended Judgment of Conviction.

9 Therefore, on May 12, 2022 the Appellant
10 had addressed written communication to the
11 Clerk of the Second Judicial District Court,
12 wherein, the Appellant had specifically
13 requested of the Court Clerk to be provided
14 with copies of any Orders, Judgments
15 and Notices of Entry, if any, filed from
16 March 16, 2022 through April 10, 2022.

17 On May 12, 2022 the Appellant filed a
18 Motion To Recall, Correct, And To Reissue, The
19 Court's April 7, 2022 Amended Judgment of
20 Conviction, wherein, the Appellant had
21 identified that he had not received service
22 of the District Court's April 7, 2022 Amended
23 Judgment of Conviction in a timely manner.

24 On or about June 3, 2022 the Appellant
25 received correspondence from the Second Judicial
26 District Court Clerk, including a copy of the
27 April 7, 2022 Amended Judgment of Conviction
28 such service of the Judgment which was untimely.

On October 31, 2022 the District Court issued an Order addressing the Appellant's Motion To Recall, Correct, And To Reissue the Court's April 7, 2022 Amended Judgment of Conviction, wherein, the Court neglected to give due consideration to the Appellant's claim that he did not receive timely service of the Court's April 7, 2022 Amended Judgment of Conviction and the collateral consequence of preventing the Appellant from filing a Notice of Appeal within the 33 days following the District Court's April 7, 2022 issuance of its Amended Judgment of Conviction.

Therefore, on November 3, 2022 and following service of the District Court's aforementioned October 31, 2022 Order, which had disposed of all pending Motions, the Appellant had submitted his Notice of Appeal from the April 7, 2022 Amended Judgment of Conviction.

III. Argument:

The Appellant had submitted his Notice of Appeal in an expedient and timely manner, within a period of 3 days subsequent to the District Court's resolution of the Appellant's Motion To Recall, Correct, or Reissue the Court's April 7, 2022 Amended Judgment of Conviction.

1 The Appellant submits that in the instant
2 case his November 10, 2022 filing of his
3 Notice of Appeal from the District Court's
4 April 7, 2022 Amended Judgment of conviction
5 was timely made. Where, the Appellant
6 had promptly filed his Motion To Recall,
7 Correct, or Reissue, The Court's April 7, 2022
8 Amended Judgment of Conviction within mere
9 days of learning of the District Court's issuance
10 of its April 7, 2022 Amended Judgment of
11 conviction and prior to receiving service
12 of said Judgment; and where the the
13 Appellant had promptly within mere days of
14 the District Court's resolution of the Appellant's
15 Motion To Recall, Correct, or Reissue, The
16 Court's April 7, 2022 Amended Judgment of
17 conviction, Filed his Notice of Appeal From
18 said Judgment,

19 Notably, NRAP Rule 4(b)(3), the Appellant's
20 Motion To Recall, Correct, or Reissue The Court's
21 April 7, 2022 Amended Judgment of conviction
22 functioned to toll the 30 day time period
23 provided pursuant to Rule 4(b)(1)(A) to file a
24 Notice of Appeal, for a period of 30 days
25 following the issuance of Order by the District
26 Court disposing of the aforementioned Motion,
27 Therefore, since the District Court had
28 disposed of the Appellant's Motion To Recall, -

1 Correct, Or Reissue ... " was finally
2 resolved on October 31, 2022, the 30 day
3 time period under Rule 4(b)(1) was tolled
4 upto and including the date of December 31,
5 2022. Thus, the Appellant's Notice of Appeal
6 was timely filed in the District Court a mere
7 10 days following the commencement of the
8 tolled time period and 21 days prior to the
9 expiration of the tolled time period.
10

11 IV. Conclusion:
12

13 This Court should recall its Order
14 Dismissing Appeal upon perceived jurisdictional
15 defect, and return the instant appeal to
16 the Court's calendar for reconsideration.
17

18 V. Verification:
19

20 Under penalty of perjury, the Appellant
21 verifies that he has read the content of the
22 foregoing Petition For Rehearing and that same
23 is true and correct of his own personal
24 information, knowledge and belief.

25 DATED this 22nd day of December 2022.

26 By: Steven Floyd Voss

27 STEVEN FLOYD VOSS,
28 Appellant, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify
that on this 22nd day of December 2022,
that I mailed a true and correct copy of
the foregoing Petition for Rehearing addressed to:

JENNIFER NOBLE, Esq.,
% Washoe County District Attorney
Post Office Box # 11130
Reno, Nevada 89520-0027

and

Nevada Attorney General
100 N. Carson Street
Carson City, Nevada 89701-4717

By: 
STEVEN FLOYD VOSS

///

///

///