

1 STEVEN FLOYD VOSS # 52094

2 Northern Nevada Correctional Center

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

FILED

JAN 26 2023

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

6 IN THE SUPREME COURT OF THE STATE OF NEVADA

8 STEVEN FLOYD VOSS,

No. 85688

9 Appellant,

10 vs.

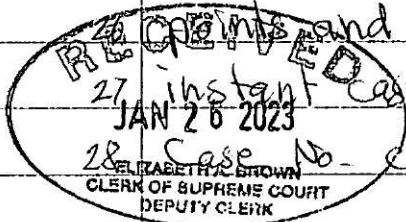
11 THE STATE OF NEVADA,

12 Respondent.

15 PETITION FOR EN BANC RECONSIDERATION

17 COMES NOW Appellant, STEVEN FLOYD VOSS, by
18 and through his proper person, and hereby
19 requests en banc reconsideration of the
20 panel decision (Docket No. 22-40172) Order
21 Dismissing Appeal and (Docket No. 23-01725)
22 Order Denying Rehearing, filed in the above
23 entitled action,

24 The instant Petition is made and is
25 predicated upon the attached memorandum of
26 Decisions and authorities, the court record in the
27 instant case, and the District Court record in
28 Case No. CR96-1581.



1 MEMORANDUM OF POINTS AND AUTHORITIES

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3 I. Nature of Petition:

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5 Hereby, the Appellant petitions the court
6 for en banc reconsideration of the court's
7 Order Dismissing Appeal (Docket No. 22-40172) and
8 Order Denying Rehearing (Docket No. 23-01725)
9 by the panel of this court. Where: (a) the
10 panel has overlooked or misapprehended a
11 material fact (regarding the court's jurisdiction) in
12 the record and a material question of law
13 in the case; and (b) the panel has overlooked,
14 misapplied or failed to consider a statute,
15 procedural rule, regulation or a decision
16 directly controlling a dispositive issue (regarding
17 the court's jurisdiction) in the case; and (c)
18 where reconsideration by the full court is
19 necessary to secure and to maintain the
20 uniformity of the decisions of the Nevada Supreme
21 Court and/or Nevada Court of Appeals; and (d)
22 the proceeding involves a substantial precedential,
23 constitutional and public policy issue.

24
25 II. Argument:

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27 The panel decisions of the court are
28 erred where the panel has clearly overlooked

1 or misapprehended the material fact in the
2 record concerning the court's appellate
3 jurisdiction.

4
5 Within the Court's Order Dismissing Appeal
6 the panel had determined that their "review
7 of this appeal reveals a jurisdictional defect",
8 as the basis for dismissing the instant appeal.
9 The court had observed that the Order of
10 the District Court denying the appellant's
11 motion to correct illegal sentence as moot,
12 which the Appellant appeals from via the
13 instant appeal was filed by the District Court
14 on May 2, 2022; however, the Appellant's
15 Notice of Appeal from said Order was not
16 filed until November 10, 2022 and over
17 30 days following the District Court's filing of
18 said Order. Based upon such cursory review
19 the Panel had determined that the Appellant's
20 Notice of Appeal was untimely filed and
21 that such untimely Notice of Appeal had failed
22 to vest appellate jurisdiction upon the court.

23 The Appellant identifies that the panel
24 had made its decision and Order Dismissing
25 Appeal without ordering the transmittal
26 of the District Court record. Thus, the
27 Panel had overlooked the material fact that
28 the 30 day time period for filing a Notice of

Appeal prescribed under NRAP Rule 4(b), was tolled by the Appellant's filing of a Motion For Clarification of Order Denying Motion For Correction of Illegal Sentence as Moot. Therefore, the 30 day time period under NRAP Rule 4(b) did not even commence accrual until October 31, 2022 when the District Court had filed its "Order Addressing Motion For Clarification of Order Denying Defendant's Motion To Correct Illegal Sentences..." The District Court record clearly reflects that the Appellant's Notice of Appeal was filed on November 10, 2022 and a mere 10 days following the District Court's disposition of the Appellant's "Motion For Clarification of Order..." As a matter of Nevada law the Appellant actually had a period of 33 days following the filing of the District Court's October 31, 2022 Order to file his Notice of Appeal including the 3 day mailing period as a matter of course. Therefore, it is clear that the Panel had overlooked and misapprehended the matter of appellate jurisdiction, and further overlooked and misapplied and to consider controlling Nevada statutes, procedural rules, and decisional precedents impacting the question of the court's appellate jurisdiction.

Based upon the aforementioned facts en banc reconsideration is warranted to secure and to

maintain uniformity in the application of Nevada Statutory law, Procedural Rules, and the Decisions of the Nevada Supreme Court and the Nevada Court of Appeals; and where the instant proceeding involves substantial procedural, constitutional and public safety issues.

III Conclusion:

En Banc review of the instant appeal is warranted. On review the court should find the Panel Decision and Order Dismissing Appeal to be erred as a matter of fact and law, and order the instant Appeal to be returned to the Court's calendar. The Court should further address the merits of the Appellant's claims for relief, and specifically address the District Court's denial of the Appellant's Motion For Correction of Illegal Sentences as being a moot Motion based upon the District Court's sua sponte entry of an Amended Judgment of Conviction on April 7, 2022 and two days subsequent to the Appellant's filing of his Motion To Correct Illegal Sentences on April 5, 2022. Additionally, the Court should address the merits of the Appellant's claims raised within his April 5, 2022 Motion To Correct Illegal Sentences.

1 IV. Verification:

2
3 under penalty of perjury, I STEVEN FLOYD
4 VOSS do hereby verify that I have read the
5 content of the foregoing document, and that
6 same is true and correct of my own personal
7 information, knowledge and belief.

8 Respectfully Submitted this day of January
9 2023.

10 By: 

11 STEVEN FLOYD VOSS,
12 Appellant in pro. per.
13

14 CERTIFICATE OF SERVICE VIA U.S. MAIL

15
16 I, STEVEN FLOYD VOSS, do hereby certify that on
17 this day of January 2023, that I mailed
18 a true and correct copy of the foregoing document,
19 addressed to:

20 JENNIFER P. NOBLE, ESQ.

21 % Washoe County District Attorney

22 Post Office Box # 11130

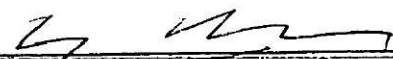
23 Reno, Nevada 89520-0027

24 and

25 Nevada Attorney General

26 100 North Carson Street

27 Carson City, Nevada 89701-4717

28 By: 
STEVEN FLOYD VOSS