

# IN THE SUPREME COURT OF THE STATE OF NEVADA

CEASAR SANCHAZ VALENCIA,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

Case No: C-16-315580-1

Docket No: 85694

# RECORD ON APPEAL VOLUME 6

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1 In this determination, you alone must decide upon the  
2 believability of the evidence and its weight and value. In considering the  
3 weight and value of the testimony of any witness, you may take into  
4 consideration the appearance, attitude, and behavior of the witness, the  
5 interest of the witness in the outcome of the lawsuit, the relationship of  
6 the witness to any party to the lawsuit, the inclination of the witness to  
7 speak truthfully or not, the probability or improbability of the witness  
8 statements, and all other facts and circumstances in evidence. Thus,  
9 you may give the testimony of any witness just such weight and value as  
10 you believe that witness is entitled to receive -- to receive.

11 I may, during the trial, take notes of what the witnesses are  
12 saying. Do not make any inference from this action on my part, because  
13 I am required to be prepared for legal arguments of the attorneys during  
14 the trial. For that reason, I may take extensive notes.

15 Again, let me remind you that until this case is submitted to  
16 you, you do not talk to each other about it or about anyone who's --  
17 anyone who has anything to do with it until the end of the case when you  
18 go to the jury room to decide your verdict. Do not talk with anyone else  
19 about this case or about anyone who has anything to do with it until the  
20 trial has ended and you have been discharged or -- as jurors. Anyone  
21 else includes members of your family or your friends.

22 Those of you who are employed obviously will need to call  
23 their boss today at one of the breaks and tell them that you have been  
24 chosen as a juror in a criminal case and the judge has told you the trial  
25 is going to last at least one day. You may also tell them that if the trial is

1 over earlier, that you will be back to work sooner. That's all you can tell  
2 your workplace until after you have been discharged by the court.

3 Do not talk -- do not let anyone talk to you about the case or  
4 about anyone that -- who has anything to do with this case. If someone  
5 should try to talk to you about this case while you are serving as a juror,  
6 please report that to me immediately by contacting the marshal.

7 Do not read any news stories or articles or listen to any radio  
8 or television reports about the case or about anyone who has anything  
9 to do with it. Do not do any research or make any investigation about  
10 the case on your own. Now, this is -- now, this is a very simple  
11 instruction. It's simple that people frequently ignore -- it is so simple that  
12 people frequently ignore it or overlook it or do not comprehend it, so let  
13 me amplify that instruction.

14 That means if something happens during the trial and there is  
15 some testimony or some witness that you do not understand what they  
16 are talking about and you know that you -- your best friend is an expert --  
17 absolute expert in that area, you cannot call him tonight and say, hey, in  
18 the trial today, the witness was talking about this and that, and next  
19 thing, can you explain that to me. It also means that you cannot jump on  
20 the Internet or social media or any other form of communication or  
21 information and try to determine -- and ask questions about it during this  
22 trial.

23 Do not make up your mind about the -- about what the verdict  
24 should be until after you have gone to the jury room to decide the case  
25 and you and your fellow jurors have discussed the evidence -- evidence.

1 It is important throughout the trial to keep an open mind.

2 At the end of the trial, we will -- you will have to make your  
3 decision based upon what you recall of the evidence. You will not have  
4 a written transcript to consult. Even though we have a court recorder  
5 who takes down the testimony, it is not typed up in a readable format. It  
6 is difficult and time consuming for the reporter to read back lengthy  
7 testimony. Therefore, I would urge you to pay close attention to the  
8 testimony as it is given.

9 We will now hear opening statements from the -- from  
10 counsel. But before I do that, does any party invoke the exclusionary  
11 rule?

12 MR. DICKERSON: No, Your Honor.

13 MR. COYER: No.

14 THE COURT: Okay. Counsel prepared to proceed?

15 MR. DICKERSON: Yes.

16 Ladies and gentlemen, thank you for taking a little bit of extra  
17 time today to hear this portion instead of coming back Monday.

18 What we have here is possession -- ownership or possession  
19 of a firearm by a prohibited person. Basically, it just means that a felon  
20 can't have a gun. What you're going to hear, is you're going to hear the  
21 defendant is, in fact, a felon. We'll admit two judgments of conviction  
22 showing that he has been convicted in this jurisdiction of a charge of  
23 possession of stolen vehicle in Case No. C-224558, and then  
24 possession of a stolen vehicle, unlawful possession of a stun device,  
25 and burglary in Case No. C-223991.



1           You're to consider everything else that you've heard  
2 previously. All that you're going to get is just two judgments of  
3 conviction showing the evidence that he is, in fact, a felon.

4           THE COURT: Mr. Coyer, defense counsel, are you going to  
5 make an opening statement?

6           MR. COYER: No. Your Honor, we'll waive.

7           THE COURT: Apologize, Mr. Coyer.

8           MR. COYER: It's okay.

9           THE COURT: Are you going to make an opening statement?

10          MR. COYER: No.

11          THE COURT: Okay. Thank you.

12          MR. DICKERSON: May I approach the clerk, Your Honor?

13          THE COURT: Yes.

14          MR. DICKERSON: Thank you.

15                I have in my hand what's been marked as State's Proposed  
16 Exhibits 55 and 56, both judgments of conviction naming Ceasar  
17 Sanchaz Valencia. I would ask, pursuant to NRS 512951 and 52080  
18 that both these be admitted as certified judgments of conviction.

19          THE COURT: Any objection by the defense?

20          MR. COYER: Your Honor, the defense is not aware of any  
21 basis to object.

22          THE COURT: I'm sorry?

23          MR. COYER: We're not aware of any legal basis to object.

24          THE COURT: So I take that no objection is interposed by the  
25 defense?

1 MR. COYER: Correct.

2 THE COURT: They'll be so admitted.

3 MR. DICKERSON: Thank you.

4 [State's Exhibit Nos. 55 and 56 admitted.]

5 MR. DICKERSON: State will rest.

6 THE COURT: Any presentation by the -- of evidence by the  
7 defense?

8 MR. COYER: No, Your Honor. Defense would rest.

9 THE COURT: Prepared to go forward with closing argument,  
10 counsel? Oh, you know what, counsel, before we go there, I have to  
11 take a short recess. Thank you.

12 MR. DICKERSON: Understood, Your Honor.

13 THE COURT: Ladies and gentlemen, we'll be on a 15-minute  
14 recess. Just stay nearby. Thank you. Wait, have a seat just one  
15 second. Where's my admonishments? Where's my admonishments?

16 All right. During this recess you're admonished not to talk or  
17 converse among yourselves or any -- or with anyone else on any subject  
18 connected with this trial, read or watch or listen to any report or -- any  
19 report of or any commentary on the trial or any person connected with  
20 this trial by any medium of information, including without limitation, the  
21 social media, text, newspapers, television, the Internet, and radio; do not  
22 visit the scene of any of the events mentioned during the trial or  
23 undertake any investigation; do not do any posting or communications  
24 on any social networking sites or do any independent research, including  
25 Internet searches, or form or express any opinion on any subject

1 connected with the trial until the case is finally submitted to you.

2 Now we are in recess.

3 [Jury recessed at 4:58 p.m.]

4 THE COURT: Let the jury reflect -- shucks. Let the record  
5 reflect that the jury has exited the courtroom, and counsel for the State,  
6 counsel for the defense, and Mr. Valencia are present.

7 Mr. Valencia, under the Constitution of the United States and  
8 under the Constitution of the State of Nevada, you cannot be compelled  
9 to testify in this case; do you understand that, sir?

10 THE DEFENDANT: I understand that.

11 THE COURT: You may at your own request give up this right  
12 and take the witness stand and testify. If you do, you will subject to  
13 cross-examination by the Deputy District Attorney. Anything that you  
14 may say, be it on direct or cross-examination, will be the subject of fair  
15 comment when the Deputy District Attorney speaks to the jury in his final  
16 argument; do you understand that, sir?

17 THE DEFENDANT: I understand it.

18 THE COURT: If you choose not to testify, the court will not  
19 permit the Deputy District Attorney to make any comments to the jury  
20 because you have not testified; do you understand that, sir?

21 THE DEFENDANT: Yes, I understand.

22 THE COURT: If you elect not to testify, the court will instruct  
23 the jury, but only if your attorney specifically requests as follows: The  
24 law does not compel a defendant in a criminal case to take the stand  
25 and testify, and no presumption may be raised and no inference of any

1 kind may be drawn from the failure of defendant to testify; do you have  
2 any questions about these rights, sir?

3 THE DEFENDANT: None.

4 THE COURT: Okay. You are further advised that if you have  
5 a felony conviction and more than 10 years has not elapsed from the  
6 date you have been convicted or discharged from prison, parole, or  
7 probation, whichever is later, and the defense has not sought to  
8 preclude that coming before the jury, and you elect to take the stand and  
9 testify, the Deputy District Attorney in the presence of the jury will be  
10 permitted to ask you the following questions:

- 11 1. Have you been convicted of a felony?
- 12 2. What is the felony? And
- 13 3. When did it happen?

14 However, no details may be gone into; do you understand  
15 those rights, sir?

16 THE DEFENDANT: I understand.

17 THE COURT: Do you understand that admonishment, I  
18 meant?

19 THE DEFENDANT: Yeah, I understand.

20 THE COURT: Do you want to confer with your counsel at this  
21 time?

22 THE DEFENDANT: No.

23 THE COURT: Counsel, do you intend to -- does Mr. Valencia  
24 intend to testify in this matter?

25 MR. COYER: No.

1 THE COURT: Okay. Is that correct, sir?

2 THE DEFENDANT: That's correct.

3 THE COURT: Are you requesting that the jury instruction be  
4 given?

5 MR. COYER: Yes, Your Honor. And for the record, it's  
6 already included as Instruction No. 13.

7 THE COURT: That's correct. I -- and we've agreed upon the  
8 jury instruction. So if the jury is out there, if you want to bring them back  
9 in, that's fine. Thank you.

10 [Pause in proceedings.]

11 [Jury reconvened at 5:02 p.m.]

12 THE COURT: This is continuation of trial, *State of Nevada vs.*  
13 *Ceasar Valencia*. Let the record reflect counsel for the State, counsel  
14 for the defense, Mr. Valencia, and the jury is present in the courtroom.

15 Mr. Lexis, are you ready for closing argument?

16 MR. DICKERSON: State's ready.

17 MR. LEXIS: Yes, Your Honor.

18 MR. COYER: For -- for the record --

19 MR. LEXIS: Yeah. Let's approach for a second.

20 May we approach, Judge?

21 THE COURT: Sure.

22 [Bench conference transcribed as follows:]

23 MR. LEXIS: Judge, are you just going to read those  
24 instructions?

25 THE COURT: We're not going to do closing argument?

1 MR. LEXIS: Yeah. But you need to read those --  
2 THE COURT: Oh, that's right. Okay.  
3 MR. LEXIS: -- instructions first.  
4 THE COURT: Okay. So -- all right. So will you --  
5 MR. COYER: Yeah. But I --  
6 THE COURT: I'm rushing too much. I need to back off a little  
7 bit.  
8 MR. LEXIS: Trust me, I'm going to be only two minutes.  
9 THE COURT: Okay.  
10 MR. DICKERSON: Very quick.  
11 THE COURT: All right. So I'm going to read the instructions.  
12 You'll do your closing argument --  
13 MR. COYER: I think --  
14 THE COURT: Are you going to do anything?  
15 MR. COYER: I think it would keep the record clean if we  
16 officially close now after he's been admonished.  
17 THE COURT: What do you mean?  
18 MR. COYER: So I think -- I think we should just say defense  
19 rests on the record --  
20 MS. PLUNKETT: Yeah.  
21 MR. COYER: -- because it's after --  
22 THE COURT: Okay.  
23 MR. COYER: -- he's been admonished.  
24 THE COURT: All right. I see what you're saying. Okay.  
25 MR. COYER: Yeah.

1 THE COURT: So the State's closed. You close and then I'll  
2 read the jury --

3 MR. COYER: He's -- he'll rest.

4 THE COURT: I'm going to ask both of you, just to be sure.

5 MR. COYER: Right.

6 MR. LEXIS: You said closed, Judge, do you just mean --

7 THE COURT: I meant -- I know what he meant. I apologize.

8 MR. LEXIS: Yeah.

9 THE COURT: But I knew what he meant. Thank you.

10 MR. LEXIS: Okay.

11 MR. COYER: Thank you.

12 [End of bench conference.]

13 THE COURT: Does the State rest?

14 MR. DICKERSON: State rests, Your Honor.

15 THE COURT: At this time, is the defense going to present  
16 any evidence?

17 MR. COYER: No additional evidence, Your Honor. No  
18 witnesses. Defense rests.

19 THE COURT: Defense rests.

20 At this time, ladies and gentlemen, I'm going to read you the  
21 jury instructions as with the -- I'm going to -- they're quite lengthy. So I'm  
22 going to actually read them to you. I'm going to go slow, make sure I  
23 pronounce each word, so.

24 [Jury instructions read.]

25 THE COURT: Counsel, ready to proceed with closing

1 argument?

2 MR. DICKERSON: Yes, You Honor.

3 MR. LEXIS: If you could just flip to the ELMO and the screen.

4 Very briefly, folks, all the evidence you previously heard is  
5 incorporated in this charge.

6 The law is right here. A person who has been convicted of a  
7 felony in this or any other state or in any political subdivision thereof or a  
8 felony in violation of the laws of the United States of America shall not  
9 own or have in his possession or under his custody or control any  
10 firearm.

11 As you previously heard, Mr. Dickerson admitted two  
12 judgments of conviction, totaling four felonies. You only need one. He's  
13 a felon. He should not have a firearm, bottom line.

14 In addition, as you see at the bottom here, neither the  
15 concealment of the firearm nor the carrying of the weapon are necessary  
16 elements of the offense. And just like in the line we previously stated,  
17 shall not own or have in his possession or under his custody or control  
18 any firearm.

19 The same rules of possession applies that we previously went  
20 over with you, actual or constructive or joint. There is no better example  
21 of possession, obviously, than actually holding it in his hand. You found  
22 him guilty of assault with a deadly weapon on a police officer, obviously,  
23 due to him holding it in his hand.

24 Therefore, it's going to take you two seconds to go back there  
25 and check the box that he had a firearm and that he is a felon, therefore,



1 guilty of this charge. Thank you.

2 THE COURT: Defense, closing argument?

3 MR. COYER: Your Honor, at this time the defense will submit  
4 it to the jury without argument.

5 THE COURT: Since the defense did not make closing  
6 argument, there's no rebuttal argument.

7 And I take it you're waiving closing argument; that is correct?

8 MR. COYER: That's correct.

9 THE COURT: The clerk will now swear in the officers to take  
10 charge of the jurors and alternate jurors.

11 [Officers sworn.]

12 THE COURT: The officers will now take the jury to the jury  
13 room for deliberation.

14 Ms. Fagin, take the alternates to the -- the lunchroom. The  
15 court is in recess.

16 [Court recessed at 5:23 p.m. until 5:26 p.m.]

17 [In the presence of the jury.]

18 THE COURT: This is the continuation of the trial of the *State*  
19 *of Nevada vs. Ceasar Valencia*. The record will reflect the presence of  
20 counsel for the State, counsel for the defense, and Mr. Valencia.

21 Do the parties stipulate to the presence of the jury?

22 MR. DICKERSON: State does, Your Honor.

23 MS. PLUNKETT: Yes, Your Honor.

24 THE COURT: Thank you.

25 Has the jury elected a foreperson.

1 JUROR NO. 5: Yes, sir.

2 THE COURT: Okay.

3 JUROR NO. 5: Xavier Antheaume.

4 THE COURT: And what was your name, sir?

5 JUROR NO. 5: Xavier Antheaume.

6 THE COURT: Thank you. Has the jury -- has the jury

7 reached a verdict?

8 JUROR NO. 5: Yes, sir.

9 THE COURT: Will you please hand the verdict to my marshal,

10 please. Okay. Here, give it to him.

11 Go ahead.

12 THE CLERK: District Court, Clark County, Nevada,

13 Case No. C-315580-1, State of Nevada, Plaintiff, Ceasar Sanchez

14 Valencia, Defendant. Verdict:

15 We, the jury, in the above-entitled -- entitled case find the

16 defendant as follows:

17 Count 1, ownership or possession of a firearm by a prohibited

18 person: Guilty of ownership or possession of firearm by prohibited

19 person.

20 Dated this 1st day of December, 2017, Xavier Antheaume,

21 Foreperson.

22 Ladies and gentlemen of the jury, is this your verdict -- verdict

23 as read, so say you one, so say you all?

24 COLLECTIVE JURY: Yes.

25 THE COURT: Do either parties desire to have the jury polled?

1 MR. DICKERSON: Not from the State, Your Honor.

2 MR. COYER: No, Your Honor.

3 THE COURT: Okay. The clerk will now record the verdicts in  
4 the minutes of the court. Please be seated.

5 Ladies and gentlemen, as you know, the right to a trial by jury  
6 is one of our basic and fundamental constitutional guarantees. I firmly  
7 believe in this right, that it is the right of every person accused of a crime  
8 to be judged by a fair and impartial jury. You must have jurors and,  
9 unfortunately, jury service is something that many persons shirk from.  
10 They do not wish to become involved. That's why I'm so pleased that  
11 you 14 men and women have been willing to give your valuable time.  
12 You have been most attentive and most conscientious. I appreciate that  
13 very much.

14 On behalf of counsel, of the parties, and the Eighth Judicial  
15 District Court, I wish to thank you for your careful deliberation which you  
16 gave to this case.

17 The question may arise as to whether you may now talk to  
18 other persons regarding this matter. I advise you that you may if you  
19 wish talk to other persons and discuss your deliberations which you  
20 gave to in this case. You're not required to do so. However, if any  
21 person persists in discussing this case after you indicate that you do not  
22 wish to do so, or raises objections as to your result or as to how you  
23 deliberate, you will report that fact directly to me.

24 Sometimes the attorneys like to ask questions about your  
25 deliberations. You can talk to the attorneys at this time, but you're not

1 required to. So if you don't want to speak to the attorneys or anybody  
2 else about this case, you're not required to.

3 Mr. Marshal -- Mr. Stevenson, where will the jurors be exiting?

4 THE CLERK: I was going to let them go out the front or we  
5 can take them out the back. It's -- it's up to you, Judge. Or if they --

6 THE COURT: Well, I think the --

7 THE CLERK: -- want to talk to you, usually we do that --

8 THE COURT: Well, no. I think the attorneys may want to talk  
9 to them. So I'm going to have you take them out the front door.

10 Again, if the attorneys approach you and want to talk to you,  
11 it's entirely your call whether you want to talk to them or you just can  
12 leave and, you know, and I truly appreciate you participating in this  
13 process.

14 At this time, I'm going to excuse the attorneys.

15 You're excused. I just want to take a few minutes with you  
16 before you leave.

17 I'm going to excuse the attorneys and the defendant at this  
18 time. And this concludes the trial of the *State of Nevada vs.* -- I'm sorry.

19 MR. DICKERSON: Yeah. Your Honor, may we approach?

20 THE COURT: Hold -- hold on a second.

21 [Bench conference transcribed as follows:]

22 MR. DICKERSON: Are we on the record?

23 THE COURT: This is off the record.

24 MR. DICKERSON: No, no. Can we be on the record?

25 THE COURT: Oh, you want it --

1 MR. DICKERSON: Yeah.

2 THE COURT: Be on the record.

3 MR. DICKERSON: At this point in time, the State has to make  
4 a Motion for Remand without bail and we then need to get the  
5 sentencing --

6 THE COURT: Okay. All right. Why --

7 MR. COYER: I agree.

8 THE COURT: -- don't we do this, take a --

9 MR. DICKERSON: Sentencing date part.

10 THE COURT: -- three-minute recess. Don't go far. Or go -- I  
11 want to talk to the jury by themselves.

12 MR. COYER: Okay.

13 MR. DICKERSON: All right.

14 [End of bench conference.]

15 THE COURT: At this time, counsel for State, counsel for the  
16 defendant, we're going to take a three-minute recess. The jury is going  
17 to remain seated and we'll reconvene in about five minutes.

18 [Court recessed at 5:31 p.m. until 5:53 p.m.]

19 [Outside the presence of the jury.]

20 THE COURT: Continuation of *State vs. Ceasar Valencia*.

21 Counsel, at this time I'm going to refer this matter over to the  
22 Department of Patrol and Probation for presentence investigation report.  
23 The sentencing date will be?

24 THE CLERK: January 18th, 9:00 p.m.

25 THE COURT: And I'm going to remand the defendant to

1 custody.

2 MR. COYER: Judge, did -- I assume you mean without bail?

3 THE COURT: Without bail.

4 MR. COYER: Okay. And --

5 MR. DICKERSON: Thank you, Your Honor.

6 MR. COYER: For the record, I would just oppose the State's  
7 motion to that effect. He's been -- he's had a bail setting the entire time.  
8 He hasn't made it. So, you know, I think Your Honor knows to the extent  
9 if someone can show up at sentencing out of custody and having their  
10 life together, it's a beneficial thing. I'd like my client to have that chance.

11 THE COURT: Has he been in custody this entire case,  
12 counsel?

13 MR. COYER: He has.

14 THE COURT: Okay.

15 MR. DICKERSON: Would you like to hear anything from me,  
16 Your Honor?

17 THE COURT: Sure. Let's -- let's hear it.

18 MR. DICKERSON: Bail is tied to the presumption of  
19 innocence. That is now gone. In this case, the defendant has now been  
20 convicted of five felonies in this case, Your Honor. That's five on top of  
21 the 11 prior felonies and gross misdemeanors that this defendant has  
22 been convicted of in the past.

23 I believe it's specifically out of those at least nine felonies, has  
24 a very long felony career. Here he's looking at the possibility of a large  
25 official sentence, the possibility of life in prison. Given this new

1 conviction, he is a flight risk if he does have to opportunity post bail. As  
2 well as the past prior criminal convictions and this case, he is a danger  
3 to the community.

4 For those reasons, we would ask that, given the fact he's now  
5 been convicted and he no longer has the presumption of innocence, that  
6 bail be revoked and he be remanded without bail.

7 THE COURT: Defense, what's your position?

8 MR. COYER: I'll submit it on my previous statements, Your  
9 Honor.

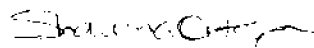
10 THE COURT: Okay. He's remanded to custody without bail.

11 MR. DICKERSON: Thank you, Your Honor.

12 THE COURT: Thank you, counsel.

13 [Phase II proceedings concluded at 5:55 p.m.]  
14  
15  
16  
17  
18

19 ATTEST: I do hereby certify that I have truly and correctly  
20 transcribed the audio/video proceedings in the above-entitled case to the  
21 best of my ability.

22   
23 \_\_\_\_\_

24 Shawna Ortega, CET\*562  
25

*Steven D. Grierson*

COSCC

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*\*

STATE OF NEVADA

CASE NO.: C-16-315580-1

VS

DEPARTMENT 18

CEASAR VALENCIA

**CRIMINAL ORDER TO STATISTICALLY CLOSE CASE**

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to statistically close this case for the following reason:

**DISPOSITIONS:**

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☐ Conviction
- ☐ Jury Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☒ Conviction
- ☐ Other Manner of Disposition

DATED this 25th day of June, 2018.

*Mark B. Bailus*  
MARK B BAILUS  
DISTRICT COURT JUDGE

RECEIVED  
JUN 28 2018  
CLERK OF THE COURT



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

CEASAR SANCHAZ VALENCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 75282**  
District Court Case No. C315580

**FILED**

**MAY 13 2019**

*Elizabeth A. Brown*  
CLERK OF COURT

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

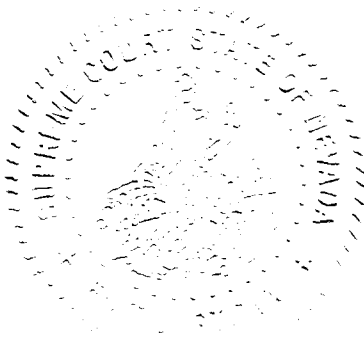
“ORDER the judgment of the district court AFFIRMED.”

Judgment, as quoted above, entered this 12th day of April, 2019.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
May 07, 2019.

Elizabeth A. Brown, Supreme Court Clerk

By: Amanda Ingersoll  
Chief Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

CEASAR SANCHAZ VALENCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75282

FILED

APR 12 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of assault on a protected person with use of a deadly weapon, trafficking in a controlled substance, ownership or possession of a firearm by a prohibited person, and two counts of possession of a controlled substance. Eighth Judicial District Court, Clark County; Mark B. Bailus, Judge. Valencia raises two contentions on appeal.<sup>1</sup>

Valencia first argues that the district court erred by denying his request to represent himself. Although the Sixth Amendment of the United States Constitution guarantees a defendant the right to self-representation, *Faretta v. California*, 422 U.S. 806, 819-20 (1975), a district court may deny a self-representation request that is “untimely, equivocal, or made for the purpose of delay.” *Watson v. State*, 130 Nev. 764, 782, 335 P.3d 157, 170 (2014). A district court’s decision to deny a motion for self-representation is reviewed for an abuse of discretion. *See Vanisi v. State*, 117 Nev. 330, 340-41, 22 P.3d 1164, 1171 (2001).

---

<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.



19-16057

Valencia argues that he “clearly and unequivocally requested to exercise his constitutional right to represent himself,” yet the record shows his requests, for the most part, were for a different attorney, not self-representation. After granting Valencia’s first request for alternate counsel, the district court brought up self-representation during a subsequent hearing, where Valencia was, again, requesting alternate counsel. At that hearing, the district court advised Valencia that his right to counsel did not include counsel of his choice and thus told Valencia that he could represent himself if he was unhappy with his options. There were occasions where Valencia expressed a desire to represent himself, but they were sandwiched between shifting requests for alternate counsel, “co-counsel,” and an investigator.

Even at the hearing when Valencia was *Faretta*-canvassed, he vacillated between telling the court that he wished to represent himself, requesting a new attorney, and asking if there was any “going back” once he made his decision on self-representation. See *Stenson v. Lambert*, 504 F.3d 873, 883 (9th Cir. 2007) (analyzing whether a self-representation request was equivocal by reviewing “the record as whole”). The record here supports that Valencia’s requests mainly consisted of his frustration with his lack of resources to prepare his defense, unhappiness with his counsel, and his belief that the State was withholding discovery, as opposed to a clear request to represent himself. See *Gallego v. State*, 117 Nev. 348, 360, 23 P.3d 227, 235-36 (2001) (reiterating that an unequivocal request for self-representation can be conditional but still “must speak to self-representation and not simply to a dissatisfaction with current counsel”), *abrogated on other grounds by Nunnery v. State*, 127 Nev. 749, 263 P.3d 235 (2011); see also *Brewer v. Williams*, 430 U.S. 387, 404 (1977) (concluding

that because a defendant's self-representation motion involves the mutually exclusive constitutional rights to either be represented by counsel or not, a court must "indulge in every reasonable presumption against [a defendant's] waiver" of his right to counsel); *Adams v. Carroll*, 875 F.2d 1441, 1444 (9th Cir. 1989) ("Because a defendant normally gives up more than he gains when he elects self-representation, we must be reasonably certain that he in fact wishes to represent himself.").

The district court could have better articulated the basis for denying Valencia's final request to discharge counsel, beyond stating that he "waived" the right to represent himself. Indeed Valencia's actions subsequent to the *Faretta* canvass included seeking to have co-counsel appointed, accepting the reappointment of counsel, and waiving the previously granted right to self-representation. Nonetheless, we conclude that it was not an abuse of discretion to deny Valencia's self-representation request since the record as a whole demonstrates Valencia did not make an unequivocal request to represent himself. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (recognizing that a correct result will not be reversed simply because it is based on the wrong reasoning).

Second, Valencia argues that the district court abused its discretion by denying his motion for a mistrial after the State elicited previously excluded prejudicial evidence. The evidence at issue was an officer's testimony that Valencia was an ex-felon. Before the officer's testimony, the parties and district court took several measures to redact any reference to Valencia's felon status on the exhibits and pleadings, including bifurcating the charge of possession of a firearm by a prohibited person. Nonetheless, the officer testified that one of Valencia's charges was "ex-felon in possession of firearm," in response to the State asking him to


read from the front of the evidence bag containing the firearm for chain of custody purposes. When Valencia failed to object, the district court intervened and took a recess to discuss the situation with the parties outside of the jury's presence. Valencia moved for a mistrial, which the district court denied noting that Valencia failed to initially object to the testimony, the bag had already been admitted without objection, and it was a passing comment that would not be permitted to be expanded on or argued in closing. In an effort to not draw further attention to the testimony, Valencia refused the district court's offer to give a curative instruction, but did ask the court to not send the bag back with the jury to review as an exhibit, which was granted.

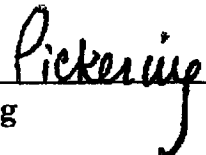
A defendant's motion for mistrial may be granted where prejudice has denied the defendant a fair trial. *Rudin v. State*, 120 Nev. 121, 144, 86 P.3d 572, 587 (2004). However, "[t]he trial court has discretion to determine whether a mistrial is warranted, and its judgment will not be overturned absent an abuse of discretion." *Id.* at 142, 86 P.3d at 586. Where the district court denies a defendant's motion for a mistrial based upon prejudicial testimony solicited by the prosecutor, this court reviews for harmless error, *Parker v. State*, 109 Nev. 383, 389, 849 P.2d 1062, 1066 (1993), which will be found "where the prejudicial effect of the statement is not strong and where there is otherwise strong evidence of defendant's guilt." *Id.*

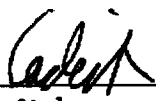
Here, the record supports that Valencia was not denied a fair trial as the evidence bag that the officer read from had already been admitted without objection from Valencia and neither the State nor Valencia realized it contained the ex-felon language. Further, the district court offered to issue a contemporaneous curative instruction, which

Valencia declined. Accordingly, the district court properly found that the prejudicial effect was minimal as the ex-felon testimony was a passing comment that the district court did not permit to be expounded on. Additionally, strong evidence supported Valencia's convictions, including multiple eyewitnesses and evidence found on his person. Therefore, we conclude that the district court did not abuse its discretion in denying Valencia's motion for a mistrial and that, nevertheless, any error would be deemed harmless. *See Rice v. State*, 108 Nev. 43, 44, 824 P.2d 281, 282 (1992) (concluding that an error was harmless beyond a reasonable doubt where the defendant refused a curative instruction after jury heard inadvertent and unsolicited trial references that indicated he had engaged in prior criminal activity). We therefore

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Cadish

cc: Hon. Mark B. Bailus, District Judge  
Coyer Law Office  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

**CERTIFIED COPY**

This document is a full, true and correct copy of the original on file and of record in my office.

DATE: May 7, 2019

Supreme Court Clerk, State of Nevada

By [Signature] Deputy

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

CEASAR SANCHAZ VALENCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 75282**  
District Court Case No. C315580

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: May 07, 2019

Elizabeth A. Brown, Clerk of Court

By: Amanda Ingersoll  
Chief Deputy Clerk

cc (without enclosures):  
Eighth Judicial District Judge, Dept. 18  
Coyer Law Office  
Clark County District Attorney  
Attorney General/Carson City

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on MAY 13 2019.

HEATHER UNGERMANN  
Deputy District Court Clerk

RECEIVED  
APPEALS

MAY 10 2019

CLERK OF THE COURT



PA  
SA  
AOK  
Gregory Coyer

FILED

AUG 12 2019

*Alvin L. Williams*  
CLERK OF COURT

IN THE Eighth JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF Clark

State of Nevada

Petitioner/Plaintiff,

vi.

Cesar Valencia #94307

Respondent/Defendant.

Case No. C-315580

Dept. No. \_\_

Docket No. \_\_

September 03, 2019  
8:30 AM

**MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD OR IN THE  
ALTERNATIVE, REQUEST FOR RECORDS/COURT CASE DOCUMENTS**

COMES NOW, Petitioner/Plaintiff, Cesar Valencia, pro per,

and respectfully moves this Honorable Court for it's Order withdrawing Gregory E. Coyer, Esq., as the Attorney of Record in the above-entitled matter.

This Motion is made and based upon Nev. Rev. Stat. 7.055, and Nev. Sup. Ct. Rules 166(4), 173, 176, and 203, and Rules 11 and 20 of the Rules of the District Courts of the State of Nevada.

**POINTS AND AUTHORITIES**

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his client shall, upon demand...immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 166(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as ...surrendering papers and property to which the client is entitled..."

Petitioner/Plaintiff would respectfully point out to this Court and the attorney of record that there

is controlling law on this issue. This citation of authority is precautionary only. In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both cases dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The Court in Yount, supra, ordered the attorney disbarred, while in Alvey, supra, the Court had the attorney censured.

In most situations it is obviously not necessary to notify the parties when the attorney withdraws from a case, but when the client wishes to remove his attorney and represent himself in person, it is required by these Statutes and Rules that the client request the Court of action to issue a certificate releasing the attorney of record. Under such statutes it is necessary for the party to present his request for the change in order for the court in making an order withdrawing the attorney of record, and to make formal demand to the Attorney for the return of all papers and property.

Therefore, let this Court be so notified that this is the desire of the Petitioner/Plaintiff herein that the aforementioned attorney of record be withdrawn and the same shall be for any other attorney(s) which could possibly be subscribed and documented as attorney(s) of record in this case, so that further actions in the above-entitled cause can be conducted by the Petitioner/Plaintiff in proper person.

Further, Petitioner/Plaintiff hereby makes formal demand upon Gregory E. Coyer, Esq., for the return of his entire file, including, but not limited to all papers, documents, pleadings and items of tangible personal property which belong to or were prepared on my behalf to me at the address set forth in this pleading.

Further, it is requested of this Court that it issue an Order directing the named attorney of record that he turn over to the Petitioner/Plaintiff the entire case file, without costs, including, but not limited to, the trial transcripts or guilty plea transcript, all briefs on appeal, and all other papers and police reports relating to this matter, so that Petitioner/Plaintiff may prosecute an appeal/post-conviction with a minimum amount of delay.

#### **CONCLUSION**

**WHEREFORE**, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to grant his Motion for Withdrawal of Attorney of Record in accordance with this Court's fair and just consideration of the facts of the case.

DATED this 7th day of August, 2009.

Respectfully submitted,

C. [Signature] #94307

Petitioner/Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Notice of Motion and Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents on this 7th day of August, 2009, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

① Clerk of the Court  
200 Lewis Ave  
LAS Vegas NV 89155  
② District Attorney  
200 Lewis Ave  
Las Vegas NV 89155

③ Gregory E Coyer Esq  
600 S Tonopah Dr Suite 220  
Las Vegas NV 89106

DATED this 7th day of August, 2009.

C. [Signature] #94307  
Petitioner/Plaintiff

**AFFIRMATION PURSUANT TO NRS 239B.030**

I, Ceasar Valencia, NDOC# 94307,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE  
ATTACHED DOCUMENT ENTITLED Motion for withdrawal  
Attorney of Record,

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY  
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 7th DAY OF Aug, 2019.

SIGNATURE: 

INMATE PRINTED NAME: Ceasar Valencia

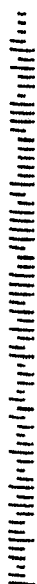
INMATE NDOC # 94307

INMATE ADDRESS: ELY STATE PRISON  
P. O. BOX 1989  
ELY, NV 89301

Caesar Valencia #94307  
PObox 1989  
ELY NV 89301  
Please Return Fire Stamp copy

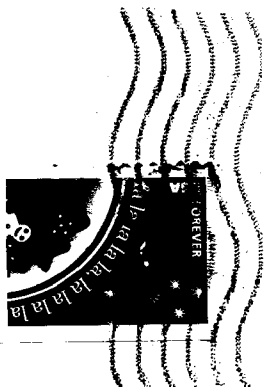
Good  
Mail

89101-630000



Clerk of the Court  
200 Lewis Av 3rd FL  
Las Vegas NV 89155

LAS VEGAS NV 890  
08 AUG 2019 PM 5 L



ELY STATE PRISON  
AUG 08 2019

FILED

AUG 12 2019

7

*Alma L. Johnson*  
CLERK OF COURT

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

State of Nevada

Petitioner/Plaintiff,

v.

Cesar Valencia #94307

Respondent/Defendant.

Case No. C-315580

Dept. No. \_\_\_\_\_

Docket No. \_\_\_\_\_

September 03, 2019  
8:30 AM

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Respondent/Defendant,

Clark County, County District Attorney, and Gregory E. Coyer  
\_\_\_\_\_, Esq.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_, at the hour of 9:00 O'clock A.M., or as soon thereafter as  
the parties may be heard, the undersigned will bring on for hearing the attached **MOTION FOR  
WITHDRAWAL OF ATTORNEY OF RECORD**, before the above-entitled Court, at the  
\_\_\_\_\_, Courthouse, in \_\_\_\_\_, Nevada, in  
Department No. \_\_\_\_\_, thereof.

DATED this 7th day of August, 2019.

Respectfully submitted,

*[Signature]* #94307

Petitioner/Plaintiff  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301-1989

RECEIVED

AUG 12 2019

CLERK OF THE COURT



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

November 05, 2019

**Attorney:** Gregory E. Coyer  
Coyer Law Office  
Attn Gregory E Coyer  
600 S Tonopah Drive - Suite 220  
Las Vegas NV 89106

**Case Number:** C-16-315580-1  
**Department:** Department 29

**Defendant:** Ceasar Sanchaz Valencia

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion For The Appointment Of Alternate Counsel**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court

1 Ceasar Sanchez Valencia #94307  
2 Defendant/In Propria Personam  
3 PO BOX 1989  
4 Ely NV 89301

5 IN THE Eighth JUDICIAL DISTRICT COURT OF THE  
6 STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

8 STATE OF NEVADA  
9 Warden;

Plaintiff,

10 vs

11 Ceasar Valencia #94307

12 Defendant

Case No C-315580

Dept No \_\_\_\_\_

13 REQUEST FOR EVIDENTIARY HEARING

14 EX PARTE

15 MOTION FOR THE APPOINTMENT OF ALTERNATE COUNSEL

16 COMES NOW, The Petitioner, Ceasar Sanchez  
17 Valencia #94307, proceeding pro se, within the above  
18 entitled cause of action and respectfully requests  
19 this Court to consider the Appointment of Alternate  
20 counsel for Petitioner for the Prosecution of this  
21 action.

22  
23 This Motion is made and based upon the matters  
24 set forth here, N.R.S 34.750 (1)(2), Affidavit of  
25 Petitioner, the Attached Memorandum of Points and Authorities,  
26 as well as all other Pleadings and documents on file  
27 within this case.

28  
RECEIVED  
NOV 05 2013  
CLERK OF THE COURT  
1235



# MEMORANDUM OF POINTS AND AUTHORITIES

## I. STATEMENT OF THE CASE

This action commenced by Petitioner Ceasar Sanchez Valencia #94307, in the state custody, pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post Conviction).

## II. STATEMENT OF THE FACTS

To support the Petitioner's need for the substituted appointment of counsel in this action, he states the following:

1. Petitioner is requesting the substituted appointment of counsel Mr Coyer. Petitioner is claiming the ineffectiveness of trial and Appeal. Mr Coyer has denied numerous times copies of the compact Discs in his possession the Disc have video and other records on it part of my case file. Petitioner has made numerous complaints with state bar about Mr Coyer's ineffectiveness laziness and unprofessional behavior. Mr Coyer has to be dismissed because of the created conflict and ineffectiveness. Substituted Counsel is requested and warranted.

1           2. The merits of claims for relief in this action  
2 are of Constitutional dimension, and Petitioner is  
3 likely to succeed in this case.

4           3. Petitioner is incarcerated at the Ely  
5 State Prison in Ely, Nevada. Petitioner is unable  
6 to undertake the ability, as an attorney would or  
7 could, to investigate crucial facts involved within  
8 the Petition for Writ of habeas corpus.

9           4. The Issues presented in the Petition involves  
10 a complexity that Petitioner is unable to argue effectively.

11           5. Petitioner does not have ~~any~~ current legal  
12 knowledge and abilities, as an attorney would have,  
13 to properly present the case to this Court coupled with  
14 the fact that appointed counsel would be of service  
15 to the Court, Petitioner, and the Respondents as  
16 well, by sharpening the issues in this case,  
17 shaping the examination of potential witnesses and ultimately  
18 shortening the time of prosecution of this case.

19           6. Petitioner has made an effort to obtain counsel,  
20 but does not have the funds necessary or available to  
21 pay for the costs of counsel, see Declaration of  
22 Petitioner.

23           7. Petitioner would need to have an Attorney appointed  
24 to assist in determination of whether he should agree to sign  
25 consent for a psychological examination.  
26

1       8. The Prison severely limits the hours that Petitioner  
2 may have access to the law Library, and as well,  
3 the facility has limited legal research materials and  
4 sources

5       9. While the Petitioner does have the assistance  
6 of prison law clerk, he is not an attorney  
7 and not allowed to plead before the courts  
8 and like Petitioner, the legal assistants have limited  
9 knowledge and expertise.

10       10. The Petitioner and his assisting law clerks,  
11 by reason of their imprisonment have a severely  
12 limited ability to investigate, or take depositions,  
13 expand the record or otherwise litigate this action.

14       11. The ends of justice will be served in this  
15 by the appointment of professional and competent  
16 counsel to represent Petitioner.

## 17       II. ARGUMENT

18       Motions for the appointment of counsel are made pursuant  
19 to N.R.S. 34.750, and are addressed to the sound  
20 discretion of the Court. Under Chapter 34.750  
21 the Court may request an attorney to represent any  
22 such person unable to employ counsel. On a Motion  
23 for Appointment of Alternate counsel pursuant to N.R.S.  
24 34.750, the District Court should consider whether  
25 Appointment of counsel would be of service to the  
26

1 indigent petitioner, the court, and respondents as well,  
2 by sharpening the issues in the case, shaping examination  
3 of witnesses, and ultimately shortening trial and  
4 assisting in the just determination.

5 In order for the appointment of counsel to  
6 be granted, the court must consider several  
7 factors to be met in order for the appointment of  
8 counsel to be granted; (1) The merits of the claim  
9 for relief; (2) The ability to investigate crucial  
10 factors; (3) Whether evidence consists of conflicting  
11 testimony effectively treated only by counsel;  
12 (4) The ability to present the case; and (5) The  
13 complexity of the legal issues raised in the petition.  
14

### 15 III. CONCLUSION

16 Based upon the facts and law presented herein, Petitioner  
17 would respectfully request this court to weigh the  
18 factors involved within this case, and appoint  
19 Alternate counsel for Petitioner to assist this court  
20 in the just determination of this action.  
21

22 Dated this 28th day of October, 2019.

23 Ceasar Valencia #94307  
24 Fly State Prison  
25 P.O. Box 1989  
26 Fly Nevada 89301  
Petitioner

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct

Dated this 28th day of October, 2019.

Cesar Sanchez Valera  
#94307

Petitioner, pro per

Ely State Prison

Pobox 1989

Ely NV 89301

## CERTIFICATE OF SERVICE BY MAIL

I, Ceasar Sanchez Valencia #94307, hereby certify pursuant to N.R.C.P. 5(b), that on this 28<sup>th</sup> day of October, of the year 2019, I mailed a true and correct copy of the foregoing, EX PARTE MOTION for Alternate Counsel and request for Evidentiary hearing by personally mail said copy to:

① Clerk of the Court  
200 Lewis Ave 3rd FL  
Las Vegas NV 89155

② District Attorney  
200 Lewis Ave  
Las Vegas NV 89155

③ Gregory E Cover Esq  
660 S Tonopah Suite 220  
Las Vegas NV 89106

④ Warden: Ely State Prison  
P.O. Box 1989  
Ely NV 89301

Dated this 28<sup>th</sup> day of October 2019

Ceasar Sanchez Valencia  
#94307  
P.O. Box 1989  
Ely NV 89301  
petitioner/Plaintiff

Case No. C-315580

Dept. No. \_\_\_\_\_

IN THE Eighth JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF Clark.

Cesar Valencia #94307  
Petitioner,

-vs-  
Warden  
State of Nevada  
Respondents.

**ORDER APPOINTING COUNSEL**

Petitioner, Cesar Valencia, has filed a proper person REQUEST FOR APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-Conviction), in the above-entitled action.

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is GRANTED.

IT IS FURTHER ORDERED that \_\_\_\_\_, Esq., is appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Submitted by:

\_\_\_\_\_  
DISTRICT COURT JUDGE

  
Petitioner, In Proper Person

**AFFIRMATION PURSUANT TO NRS 239B.030**

I, Ceasar Valencia, NDOC# 94307,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE  
ATTACHED DOCUMENT ENTITLED EX PARTE MOTION FOR  
The Appointment of Alternate Counsel and request for evidentiary  
DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY  
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 28th DAY OF October, 2019.

SIGNATURE: 

INMATE PRINTED NAME: Ceasar Valencia

INMATE NDOC # 94307

INMATE ADDRESS: ELY STATE PRISON  
P. O. BOX 1989  
ELY, NV 89301



2 To: Clerk of the Court

my name is Ceasar Valencia I would highly appreciate if you would help me file this motion with the courts this motion is a ex parte motion for Alternate counsel would you please foreword a copy to all parties involved, return to me two file stamp copies, if I send two more motions at a later time can they be set for the hearing? one is motion for transport.

Thank you for your  
time and consideration

respectfully  
Ceasar Valencia  
#944307  
PO Box 1989  
ELY NV 89801

RECEIVED  
NOV 05 2019  
CLERK OF THE COURT

Caesar Sanchez Valencia

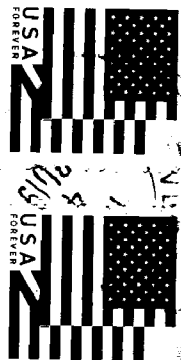
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Po box 1989

ELY NV 89301

please return file stamp copy

11/2/19



Clerk of the court  
200 Lewis Ave 3rd Fl  
Las Vegas NV 89155

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ELY STATE PRISON  
NOV 03 2019  
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Case No. C-315580

Dept. No. \_\_\_\_\_

IN THE Eighth JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF Clark.

Cesar Valencia #94307  
Petitioner,

-vs-  
Warden  
State of Nevada  
Respondents.

**ORDER APPOINTING COUNSEL**

Petitioner, Cesar Valencia, has filed a proper person REQUEST FOR  
APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-  
Conviction), in the above-entitled action. Appeal ✓

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause  
Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is  
GRANTED.

IT IS FURTHER ORDERED that \_\_\_\_\_, Esq., is  
appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Submitted by:

\_\_\_\_\_  
DISTRICT COURT JUDGE

  
Petitioner, In Proper Person

(8)

1 Ceasar Valencia #94307  
2 In Propri Personam  
3 DOB 1989 ESP  
4 Ely NV 89301

FILED

NOV 14 2019

*Allen L. Blum*  
CLERK OF COURT

5 DISTRICT COURT  
6 CLARK COUNTY NEVADA

7 STATE OF NEVADA  
8 WARDEN;

9 vs

10 Ceasar Sanchez Valencia #94307

Case No C-315580

Dept No 29

11  
12  
13 NOTICE OF MOTION

14 YOU WILL PLEASE TAKE NOTICE, that MOTION TO DISMISS  
15 COUNSEL AND Appoint Alternate Counsel

16 Will come on for Hearing before the above-entitled court on \_\_\_\_ day of  
17 2019 at the hour of \_\_\_\_ o'clock \_\_\_\_ M In Department of  
18 said court.

19 CC File

December 5, 2019  
8:30 AM

20 Dated this 8th day of November 2019

21 by Ceasar Valencia #94307  
22 *CR* #94307  
23 IN propri personam

24 RECEIVED

CLERK OF THE COURT

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Caesar Sanchez Valencia #94307  
pro se  
ELY STATE PRISON  
PO BOX 1989  
ELY NV 89301

FILED

NOV 14 2019

DISTRICT COURT  
CLARK COUNTY, NEVADA

7  
Clerk of Court

Warden;  
STATE OF NEVADA

December 5, 2019  
8:30 AM

VS

Case No C-315580-1

Dept No 29

Caesar Sanchez Valencia  
#94307

request for Evidentiary  
hearing

MOTION TO DISMISS COUNSEL AND  
APPOINT ALTERNATE COUNSEL

COMES NOW Defendant Caesar Sanchez Valencia  
#94307, pro per and respectfully moves this Honorable  
court for its order Dismiss withdrawing Gregory E.  
Coyer ESQ as Attorney of record and Appoint  
substitute counsel in the above-entitled matter

This Motion is made and based upon Nev. Rev.  
Stat. 7.055, NRS 34.750 and NRS 121.188,  
NRS 178.397, and Nev. Sup. CT Rules 166(4),  
173, 176, and 203, and Rules 11 and 20 of Rules  
of the District Courts of the State of Nevada.

And Attached Points and Authorities all papers  
and pleadings

# MEMORANDUM OF POINTS AND AUTHORITIES

## I. STATEMENT OF THE CASE

This action commenced by Petitioner Ceasar Sanchez Valencia #94307, in the state custody, pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post Conviction).

## II. STATEMENT OF THE FACTS

To support the Petitioner's need for the substituted appointment of counsel in this action, he states the following:

1. Petitioner is requesting the substituted appointment of counsel Mr Coyer. Petitioner is claiming the ineffectiveness of trial and Appeal. Mr Coyer has denied numerous times copies of the compact Discs in his possession the Disc have video and other records on it part of my case file. Petitioner has made numerous complaints with state bar about Mr Coyer's ineffectiveness laziness and unprofessional behavior. Mr Coyer has to be dismissed because of the created conflict and ineffectiveness. SS substituted Counsel is requested and warranted.

1           2. The Merits of claims for relief in this action  
2 are of Constitutional dimension, and Petitioner is  
3 likely to succeed in this case.

4           3. Petitioner is incarcerated at the Ely  
5 State Prison in Ely, Nevada. Petitioner is unable  
6 to undertake the ability, as an attorney would or  
7 could, to investigate crucial facts involved within  
8 the Petition for Writ of habeas corpus.

9           4. The Issues presented in the Petition involves  
10 a complexity that Petitioner is unable to argue effectively.

11           5. Petitioner does not have ~~any~~ current legal  
12 knowledge and abilities, as an attorney would have,  
13 to properly present the case to this Court coupled with  
14 the fact that appointed counsel would be of service  
15 to the Court, Petitioner, and the Respondents as  
16 well, by sharpening the issues in this case,  
17 shaping the examination of potential witnesses and ultimately  
18 shortening the time of prosecution of this case.

19           6. Petitioner has made an effort to obtain counsel,  
20 but does not have the funds necessary or available to  
21 pay for the costs of counsel, see Declaration of  
22 Petitioner

23           7. Petitioner would need to have an Attorney appointed  
24 to assist in determination of whether he should agree to sign  
25 consent for a psychological examination.  
26

1       8. The Prison severely limits the hours that Petitioner  
2 may have access to the law Library, and as well,  
3 the facility has limited legal research materials and  
4 sources

5       9. While the Petitioner does have the assistance  
6 of prison law clerks, he is not an attorney  
7 and not allowed to plead before the courts  
8 and like Petitioner, the legal assistants have limited  
9 knowledge and expertise.

10       10. The Petitioner and his assisting law clerks,  
11 by reason of their imprisonment have a severely  
12 limited ability to investigate, or take depositions,  
13 expand the record or otherwise litigate this action.

14       11. The ends of justice will be served in this  
15 by the appointment of professional and competent  
16 counsel to represent Petitioner.

## 17       II. ARGUMENT

18       Motions for the appointment of counsel are made pursuant  
19 to N.R.S. 34.750, and are addressed to the sound  
20 discretion of the Court. Under Chapter 34.750  
21 the Court may request an attorney to represent any  
22 such person unable to employ counsel. On a Motion  
23 for Appointment of Alternate counsel pursuant to N.R.S.  
24 34.750, the district court should consider whether  
25 Appointment of counsel would be of service to the  
26



1 indigent petitioner, the court, and respondents as well,  
2 by sharpening the issues in the case, shaping examination  
3 of witnesses, and ultimately shortening trial and  
4 assisting in the just determination.

5 In order for the appointment of counsel to  
6 be granted, the court must consider several  
7 factors to be met in order for the appointment of  
8 counsel to be granted; (1) The merits of the claim  
9 for relief; (2) The ability to investigate crucial  
10 factors; (3) whether evidence consists of conflicting  
11 testimony effectively treated only by counsel;  
12 (4) The ability to present the case; and (5) The  
13 complexity of the legal issues raised in the petition.  
14

### 15 III. CONCLUSION

16 Based upon the facts and law presented herein, Petitioner  
17 would respectfully request this court to weigh the  
18 factors involved within this case, and appoint  
19 Alternate counsel for Petitioner to assist this court  
20 in the just determination of this action.  
21

22 Dated this 28th day of October, 2019.

23 Cesar Valencia #94307  
24 Elko State Prison  
25 P.O. Box 1989  
26 Elko, Nevada 89301  
Petitioner

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct

Dated this 28th day of October, 2019.

Cesar Sanchez Valera  
#94307

Petitioner, pro per

Ely State Prison

Pobox 1959

Ely NV 89301

## CERTIFICATE OF SERVICE BY MAIL

I, Ceasar Sanchez Valencia #94307, Hereby certify pursuant to N.R.C.P. 5(b), that on this 8th day of November of year 2019, I mailed a true and correct copy of the foregoing, MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL AND REQUEST FOR EVIDENTIARY HEARING, by personally mailed said copy to:

① Clerk OF THE COURT  
200 Lewis Av 3rd FL  
Las Vegas NV 89155

② DISTRICT ATTORNEY  
200 Lewis Av  
Las Vegas NV 89155

③ Gregory E Coyer ESQ  
600 S Tonopah suite 220  
Las Vegas NV 89106

④ Warden Ely STATE PRISON  
Pobox 1989  
Ely NV 89301

DATED this 8th day of November 2019


Ceasar Sanchez Valencia  
#94307  
Pobox 1989  
Ely NV 89301  
petitioner/Plaintiff

AFFIRMATION PURSUANT TO NRS239B.030

I, Ceasar Valencia, NDOC # 94307, Certify THAT  
I AM THE UNDERSIGNED INDIVIDUAL AND THAT  
THE ATTACHED DOCUMENT ENTITLED:  
MOTION TO DISMISS COUNSEL AND APPOINT  
ALTERNATE COUNSEL AND REQUEST FOR  
EVIDENTIARY HEARING; DOES NOT CONTAIN  
THE SOCIAL SECURITY NUMBER OF ANY  
PERSONS, UNDER THE PAINS AND PENALTIES  
OF PURJURY

DATED THIS 8th Day of November 2019.

signature 

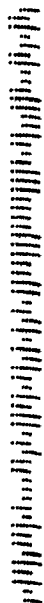
Ceasar Sanchez Valencia #94307  
Inmate Address:  Ely STATE PRISON  
PO BOX 1989  
Ely NV 89301

Caesar Sanchez Valencia  
#94307 ESP  
PO BOX 1989  
ELY NV 89301  
Please Return Fire Stamp Copy

13657  
11/8/14



Clerk of the Court  
200 Lewis Av 3rd FL  
Las Vegas NV 89155



89101\$6300 C075

ELY STATE PRISON  
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US

FILED

JAN 09 2020

*Ann L. Blum*  
CLERK OF COURT

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March  
Kozal

1 Cesar Sanchez Valencia #94307  
2 /In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE

6 STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

7 STATE OF NEVADA

8 vs.

9 CEASAR SANCHEZ  
10 VALENTEA #94307

Case No. C-16-315880-1

Dept. No. 29

Docket

(Expedient Action Requested)

14 **MOTION TO WITHDRAW COUNSEL**

15 Date of Hearing: \_\_\_\_\_

February 4, 2020  
8:30 AM

16 Time of Hearing: \_\_\_\_\_

17 'ORAL ARGUMENT REQUESTED, Yes X No X'

18 COMES NOW, Defendant, Cesar Sanchez Valencia, proceeding in proper person,  
19 moves this Honorable Court for an ORDER Granting him permission to withdraw his present counsel  
20 of record in the proceeding action, namely,

21 Gregory E. Coover ESQ

22 This Motion is made and based on all papers and pleadings on file with the Clerk of the Court  
23 which are hereby incorporated by this reference, the Points and Authorities herein, and attached  
24 Affidavit of Defendant.

25 DATED: this Jan day of 5th, 2020.

26 BY: Cesar Sanchez Valencia  
27 #94307  
28 /In Propria Personam

1 **POINTS AND AUTHORITIES**

2 NRS 7.055 states in pertinent part:

- 3 1. An attorney who has been discharged by his client shall upon demand and payment of the fee  
4 due from the client, immediately deliver to the client all papers, documents, pleadings and items  
5 of tangible personal property which belong to or were prepared for that client.
- 6 2. . . If the court finds that an attorney has, without just cause, refused or neglected to obey its  
7 order given under this section, the court may, after notice and fine or imprison him until the  
8 contempt purged. If the court finds that the attorney has, without just cause, withheld the  
9 client's papers, documents, pleadings, or other property, the attorney is liable for costs and  
10 attorney's fees.

11 Counsel in the above-entitled case was court-appointed due to Defendant's indigence. Defendant  
12 does not owe counsel any fees.

13 **WHEREFORE**, Defendant prays this Honorable Court, Grant his Motion to Withdraw Counsel  
14 and that counsel deliver to Defendant all papers, documents, pleadings, discovery and any other  
15 *:To include but not limited ALL compact discs*  
16 *ALL VIDEO AND ALL PICTURE: TO Include but NOT LIMITED ALL compact discs*  
17 tangible property which belong to or were prepared for the Defendant to allow Defendant the proper  
18 assistance that is needed to insure that justice is served.

19 **DATED:** this Jan day of 5th, 2020.

20 Respectfully submitted,

21 **BY:** Cesar Sanchez Valencia  
22 [Signature] # 94307  
23 /In Propria Personam  
24 Post Office Box 650 [HDSP]  
25 Indian Springs, Nevada 89018  
26  
27  
28

NAME: Ceasar Sanchez Valencia # 94307

HIGH DESERT STATE PRISON  
P.O. BOX 650  
INDIAN SPRINGS, NEVADA 89018

DATE: 1-5-2020

TO: Gregory E Coyer ESQ  
600 S Tonopah Dr suite 200  
Las Vegas NV 89106  
(Expedient Action Requested)

SUBJECT: TERMINATION OF COUNSEL/TRANSFER OF RECORDS

CASE NO.: C-16-315580-1

DEPT. NO.: Dept 29

CASE NAME: Valencia Ceasar Sanchez

Please be advised that from this date forward, your authority as Attorney of Record in the above-stated action is hereby terminated. All of the professional relations of Attorney and Client do hereby cease.

Please enter your withdrawal from this action with the Court immediately.

Pursuant to NRS 7.055, I respectfully request that you deliver to me, forthwith, all documents, <sup>To include but not limited all compact Disc's</sup> papers, pleadings and tangible personal property that is in your possession that relates to the above-named action.

Your prompt attention to this request is genuinely appreciated.

Respectfully,



////// would you please make sure that All Compact Disc's have  
my inmate ID number and case number for preparation on post  
conviction: Habeas corpus petition state  
of Nevada and Federal 28 USC 2254 Thank you



**CERTIFICATE OF SERVICE BY MAILING**

I, Ceasar Sanchez Valencia #94307, hereby certify, pursuant to NRCP 5(b), that on this Jan  
day of Fifth 5th, 2020, I mailed a true and correct copy of the foregoing, "Motion  
TO WITHDRAW COUNSEL"

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

Clerk of the Court  
200 Lewis Ave 3rd FL  
Las Vegas NV 89155-1160

Clark County District Attorney  
200 Lewis Ave  
Post Office Box 552212  
Las Vegas NV 89155-2212

Gregory F Cover ESQ  
600 S Toropah Dr Suite 220  
Las Vegas NV 89106

Nevada Attorney General  
100 North Carson Street  
Carson City Nevada 89701

CC:FILE

DATED: this Jan day of 5th, 2020.

Ceasar Sanchez Valencia  
#94307  
/In Propria Personam  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion

TO WITHDRAW COUNSEL / MOTION FOR Production of Documents/Papers  
(Title of Document)

filed in District Court Case number C-16-315580-1

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

-OR-

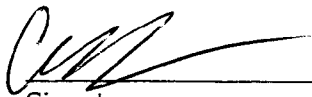
☐ Contains the social security number of a person as required by:

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

1-5-20  
Date

Cesar Sanchez Valencia  
Print Name

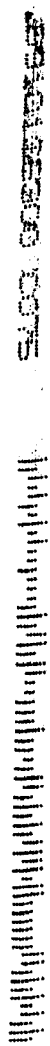
Defendant  
Title

Caesar Valencia #94307  
Box 650  
Indian Springs NV 89302  
Please Return file stamped copy

12/29/19  
Morrison

3762

At Dept 29  
Clerk of the Court  
JCC Lewis & Clark  
Las Vegas NV 89155-1166



HIGH DESERT STATE PRISON

JAN 05 2019

UNIT 6 A/B

1 Cesar Sanchez Valencia #94307  
2 / In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

FILED

JAN 09 2020

Alvin L. Johnson  
CLERK OF COURT

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA

9  
10 vs.

11 CEASAR SANCHEZ

12 Valencia #94307

Case No. C-315880-1

Dept No. 29

Docket

February 4, 2020  
8:30 AM

14 NOTICE OF MOTION

15 YOU WILL PLEASE TAKE NOTICE, that Cesar Sanchez Valencia pro SE  
16 ON MOTION TO WITHDRAW COUNSEL

17 will come on for hearing before the above-entitled Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
18 at the hour of \_\_\_\_ o'clock \_\_\_\_ M. In Department \_\_\_\_, of said Court.

19  
20 CC:FILE

21  
22 DATED: this Jan day of 5th, 2020.

23  
24  
25 BY: Cesar Sanchez Valencia  
Valencia #94307  
/In Propria Personam

CLERK OF THE COURT

JAN - 9 2020

RECEIVED



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

January 10, 2020

**Attorney:** Marcus Kent Kozal  
Law Offices of Paul J Adras  
c/o Marcus Kent Kozal  
4532 W Charleston Blvd  
Las Vegas NV 89102

**Case Number:** C-16-315580-1  
**Department:** Department 29

**Defendant:** Ceasar Sanchaz Valencia

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion For Production Of Documents, Papers, Pleadings And Tangible  
Property Of Defendant**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court

1 Cesar Sanchez Valencia #94307  
2 Defendant/ In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA

9 Plaintiff,

10 vs.

11 CEASAR SANCHEZ VALENCIA  
12 #94307

Defendant.

Case No. C-16-315580-1

Dept No. 29

Docket

*(Expedientious Action Required)*

13  
14 **MOTION FOR PRODUCTION OF DOCUMENTS,**  
15 **PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT**

16 Date of Hearing: \_\_\_\_\_

17 Time of Hearing: \_\_\_\_\_

18 "ORAL ARGUMENT REQUESTED, Yes \_\_\_ No X"

19 COMES NOW, Defendant, Cesar Valencia #94307, proceeding in proper person,  
20 hereby moves this Honorable Court for its ORDER for the production of all documents, papers, *to include all compact disc*  
21 pleadings and tangible property in the possession of: Gregory E Loyer ESQ

22  
23 This Motion is made and based upon all papers and pleadings on file with the Clerk of the Court  
24 which are hereby incorporated by this reference, the Points and Authorities herein, and attached  
25 Affidavit of Defendant.

26 DATED: this Ten day of 5th, 2020.

27 BY Cesar Valencia #94307

28 Defendant/In Propria Personam #94307

RECEIVED

JAN 09 2020

CLERK OF THE COURT

1265

## POINTS AND AUTHORITIES

The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

"An attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property which belong to or were prepared for that client."

As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s) of record, were appointed by the Court to represent the defendant, who was an indigent, in Case Number C-16-31558 in Department No. 29.

N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and deliver to the defendant in his/her possession, which states:

"A client who, after demand therefore and payment of the fee due from him, does not receive from his discharged attorney all papers, documents, pleadings and items of tangible personal property may, by a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers, Documents, pleadings and other property."

In numerous cases throughout this great land, the courts have held attorneys to a high degree of professional responsibility and integrity. This carried from the time of hiring to and through the attorney's termination of employment.

Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a "... prompt accounting of all his client's. . . property in his possession." This is echoed in Canon 2 of the Code of Professional Responsibility of the American Bar Association, which states in pertinent part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with applicable laws on the subject.

In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce  
6 and deliver to the Defendant all documents and personal property in his/their possession belonging to  
7 him or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers.  
8 The attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

10  
11 DATED: this Jan day of 5th, 2020.

12  
13 BY Cesar Sanchez Valencia # 94502  
14 Defendant/In Propria Personam  
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**CERTIFICATE OF SERVICE BY MAILING**

I, Cesar Valencia #94307, hereby certify, pursuant to NRC 5(b), that on this JAN  
day of 5th, 2020, I mailed a true and correct copy of the foregoing, "MOTION FOR  
Production to Include But NOT Limited All Compact Disc documents  
PAPERS PLEADINGS AND ALL TANGIBLE PROPERTY OF DEFENDANT"  
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

Clerk of the Court  
200 Lewis Ave 3rd FL  
Las Vegas NV 89155-1160

Clerk County District Attorney  
200 Lewis Ave  
Post Office box 55222  
Las Vegas NV 89155-2222

Gregor E Coyer ESQ  
600 S Tonopah Dr Suite 220  
Las Vegas NV 89106

Nevada Attorney General  
100 North Carson Street  
Carson Nevada 89701

CC:FILE

DATED: this JAN day of 5th, 2020.

Cesar Sanchez Valencia #94307  
CS # 94307  
/In Propria Personam  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

1 Ceasar Sanchez Valencia #94307

2 / In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7 STATE OF NEVADA

8  
9  
10 vs.

11 CEASAR SANCHEZ VALENCIA  
12 #94307

Case No. C-16-315580-1

Dept No. 29

Docket \_\_\_\_\_

13  
14 **NOTICE OF MOTION**

15 **YOU WILL PLEASE TAKE NOTICE**, that Ceasar Sanchez Valencia #94307

16 WILL COME ON MOTION FOR PRODUCTION OF ALL DOCUMENTS TO Include ALL  
17 COMPACT DISC

18 will come on for hearing before the above-entitled Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
19 at the hour of \_\_\_\_ o'clock \_\_\_\_ M. In Department \_\_\_\_, of said Court.

20 CC:FILE

21  
22 DATED: this Jan day of 5th, 2020.

23  
24 BY: Ceasar Sanchez Valencia  
25 [Signature] # 94307  
26 /In Propria Personam

27 **RECEIVED**

28 **JAN 09 2020**

**CLERK OF THE COURT**

Cesar Valencia #94307

Pobox 650

Indian Springs NV 89470

please return file stamped copy

3762

12/21/19

# Dept 29  
check of the court  
JCC Lewis H 3rd FL  
Los Vegas NV 89155-1166



3762 3762 3762

HIGH DESERT STATE PRISON  
JAN 05 2019  
UNIT 6 A/B

1 Cesar Sanchez Valencia #94307  
2 Defendant/ In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

FILED  
FEB 06 2020

John J. Williams  
CLERK OF COURT

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

March 3, 2020  
8:30 AM

7  
8 STATE OF NEVADA

9 Plaintiff,

10 vs.

11 CEASAR SANCHEZ VALENCIA  
12 #94307

Defendant.

Case No. C-16-315580-1

Dept No. 29

Docket

(Expedition Action Required)

13  
14 **MOTION FOR PRODUCTION OF DOCUMENTS,**  
15 **PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT**

16 Date of Hearing: \_\_\_\_\_

17 Time of Hearing: \_\_\_\_\_

18 "ORAL ARGUMENT REQUESTED, Yes \_\_\_ No X"

19 COMES NOW, Defendant, Cesar Valencia #94307, proceeding in proper person,  
20 hereby moves this Honorable Court for its ORDER for the production of all documents, papers,  
21 pleadings and tangible property in the possession of: Gregory E Loyer ESQ  
22 And or Marcus Kent Kozal

23 This Motion is made and based upon all papers and pleadings on file with the Clerk of the Court  
24 which are hereby incorporated by this reference, the Points and Authorities herein, and attached  
25 Affidavit of Defendant.

26 DATED: this Ten day of 5th, 2020.

27 BY Cesar Valencia #94307

28 Defendant/In Propria Personam

# 94307

RECEIVED

FEB 6 2020

CLERK OF THE COURT

RECEIVED

JAN 09 2020

CLERK OF THE COURT

## POINTS AND AUTHORITIES

The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

"An attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property which belong to or were prepared for that client."

As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s) of record, were appointed by the Court to represent the defendant, who was an indigent, in Case Number C-10-315580 in Department No. 29.

N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and deliver to the defendant in his/her possession, which states:

"A client who, after demand therefore and payment of the fee due from him, does not receive from his discharged attorney all papers, documents, pleadings and items of tangible personal property may, by a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers, Documents, pleadings and other property."

In numerous cases throughout this great land, the courts have held attorneys to a high degree of professional responsibility and integrity. This carried from the time of hiring to and through the attorney's termination of employment.

Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a "... prompt accounting of all his client's. . . property in his possession." This is echoed in Canon 2 of the Code of Professional Responsibility of the American Bar Association, which states in pertinent part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with applicable laws on the subject.

In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce  
6 and deliver to the Defendant all documents and personal property in his/their possession belonging to  
7 him or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers.  
8 The attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

10  
11 DATED: this Jan day of 5th, 2000.

12  
13 BY: Cesar Sanchez Valencia # 94502  
14 Defendant/In Propria Personam  
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**CERTIFICATE OF SERVICE BY MAILING**

I, Cesar Valencia #94307, hereby certify, pursuant to NRCP 5(b), that on this JAN  
day of 5th, 2020, I mailed a true and correct copy of the foregoing, "MOTION FOR  
Production to Include But NOT Limited ALL COMPACT DISC documents,  
PAPERS, PLEADINGS AND ALL TANGIBLE PROPERTY OF DEFENDANT  
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

Clerk of the Court  
200 Lewis Ave 3rd FL  
Las Vegas NV 89155-1160

Clark County District Attorney  
200 Lewis Ave  
Post Office box 55222  
Las Vegas NV 89155-2022

Gregor E Coyer ESQ  
600 S Tonopah Dr Suite 220  
Las Vegas NV 89106

Nevada Attorney General  
100 North Carson Street  
Carson Nevada 89701

Marcus Kent Kozai  
Law Offices of Paul Jach  
4532 W Charleston Blvd  
Las Vegas NV 89102

CC:FILE

DATED: this JAN day of 5th, 2020.

Cesar Sanchez Valencia #94307  
CS # 94307  
/In Propria Personam  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

Cesar Valenciano #94307  
P.O. Box 650  
Indian Springs NV 89070

Please Return File Stamp copy

Legal  
Mail

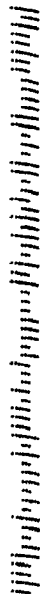
1275

U.S. AIRMAIL

04 FEB 2020 PM 3:11

FOREVER / USA

Clerk of The Court  
200 Lewis Ave 3rd Fl  
Las Vegas NV 89155



89101-630000

RECEIVED  
JAN 31 2020  
HIGH DESERT STATE PRISON



1 Ceasar Sanchez Valencia #94307

2 / In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

FILED

FEB 06 2020

*Allen J. Johnson*  
CLERK OF COURT

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA

March 3, 2020  
8:30 AM

9  
10 vs.

11 CEASAR SANCHEZ VALENCIA  
12 #94307

Case No. C-16-315580-1

Dept No. 29

Docket

14 NOTICE OF MOTION

15 YOU WILL PLEASE TAKE NOTICE, that Ceasar Sanchez Valencia #94307  
16 ~~DO SE ON MOTION FOR PRODUCTION OF ALL DOCUMENTS TO Include ALL~~  
17 ~~COMPACT DISC~~

18 will come on for hearing before the above-entitled Court on the \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_,  
19 at the hour of \_\_\_\_ o'clock \_\_\_\_. M. In Department \_\_\_\_, of said Court.

20 CC:FILE

21  
22 DATED: this 5th day of Jan, 2020.

23  
24 BY Ceasar Sanchez Valencia  
25 #94307  
26 /In Propria Personam

27 RECEIVED

28 JAN 09 2020

CLERK OF THE COURT

Cesar Sanchez Valencia  
#94307  
po box 650  
Indian Springs NV 89207  
Defendant proper person

FILED

JUL 13 2020

CLERK OF COURT

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

Cesar Sanchez Valencia #94307  
Petitioner

Case No. C-16-315580-1

Dept No. 29

Docket No.

THE STATE OF NEVADA  
Respondent

August 4, 2020  
8:30 AM

MOTION TO HOLD GREGORY E COYER, ATTORNEY OF RECORD IN  
CONTEMPT FOR FAILING TO FORWARD A COPY OF CASE FILE

COMES NOW, Petitioner, Cesar Sanchez Valencia  
#94307, proper, and respectfully moves this Honorable  
Court for its Order holding GREGORY E COYER,  
ESQ as the Attorney of Record in the above entitled  
matter in contempt of Court for failing to forward  
entire case file, to include and not limited to  
all DISCS and photographs. Again to forward entire  
case file.

This Motion is made and based upon Nev. Rev. Stat 2.055  
and Nev. Sup. Ct Rules 166(4), 173, 176, and 203 and  
Rules 11 and 20 of the rules of the District Court of  
the state of Nevada.

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner Ceasar Sanchez Valencia #94307 file a pro-per Motion's for withdrawal of Attorney and Request of Records and also Motion for Production of documents, Papers, Pleadings AND Tangible property of Petitioner Ceasar Sanchez Valencia. pro per motion to proceed in forma pauperis. On September 3rd 2019 and in March 3rd 2020 this Court heard the motions and granted them both. On October-22, 2019 wrote Gregory E Coyer ESQ a letter and sent him a copy of criminal Court minutes and the order granting Petitioner's Motion for Withdrawal of Attorney of Record in Feb and transfer of Records in March. See Exhibit A attached. As of the date of this Motion Gregory E Coyer ESQ has not Responded Petitioner Ceasar Sanchez Valencia has not received any response from Mr Coyer or the transfer of entire case file that was requested.

ARGUMENT

Nevada courts have the inherent power and jurisdiction to impose sanctions on Attorneys, even in criminal cases, See Supreme court rules, Rule 39, and also Young v Ninth Federal District Court 107 Nev. 652, 818 P2d 844 (1991); and Greene v State 113 Nev 152 at 170, 931 P2d 54 (1997).

1 Ceasar Sanchez Valencia's Direct Appeal was  
2 decided on April 12 2019 Mr Coyer did not  
3 send the file to the Petitioner Ceasar Valencia  
4 upon the Supreme Court's decision to deny the  
5 appeal. Nevada Revised Statute chapter 34 sets  
6 forth the procedures to be utilized by a person  
7 convicted of a crime to collaterally attack their  
8 conviction. NRS 34.726 requires that the Petition  
9 for Writ of Habeas Corpus (Post conviction) be filed  
10 within one (1) year of the date of the remittor  
11 issuing in the case Mr Coyer has not forward  
12 the file to Ceasar Valencia Petitioner when his  
13 representation was complete upon denial of  
14 the Direct Appeal and even after this Court  
15 ordered him to forward the file to the Petitioner  
16 Ceasar Sanchez Valencia #94307.  
17 SCR 154(1) requires an Attorney to keep a client  
18 reasonably informed about the status of a matter and  
19 to promptly comply with a reasonable request for  
20 information. As shown by the Courts order of  
21 Sept 3rd 2019 Feb and March 2020 Mr Coyer  
22 has not promptly responded to Ceasar Valencia Petitioner  
23 request for his case file so that the Petitioner  
24 can competently challenge his conviction in the  
25 Courts. The Nevada Supreme Court has adopted  
26 the Standard set forth in Strickland v Washington  
27 104 S Ct 2052, 4166 US 668 (1984).

1, for judging the reasonable effective assistance of  
2 counsel. See Warden v Lyons 683 P2d 504, 100 Nev.  
3 430 (1984); Dawson v State 825 P2d 593 105 Nev 12  
4 (1992). Strickland requires that a convicted defendant  
5 making a claim of ineffective assistance of counsel must  
6 identify the acts or omissions of counsel that  
7 are alleged not to have been the result of professional  
8 judgment. id. 104 S.Ct. at 2066 n. 12.

9 Without the requested Rule Cesar Sanchez Valencik  
10 Petitioner cannot identify all of acts and omissions  
11 of counsel. He is in essence in a boat without a paddle  
12 and no way to steer a course. Without the Rule  
13 Cesar Sanchez Valencik can do no more than make  
14 bare allegations.

15 SCR 16d(4) requires that upon termination of representation,  
16 the Attorney shall take reasonable steps to protect a  
17 client's interest, including surrender papers and  
18 property to which the client is entitled. See

19 In re Kaufman, 93 Nev. 452, 567 P2d 957

20 (1977) and In re Frankovich, 94 Nev 104 at 109  
21 575 P2d 931 (1978). GREGORY ELOYER

22 ESQ clearly has failed in his obligations to the  
23 Petitioner Cesar Sanchez Valencik in not forwarding his  
24 file to him upon the termination of representation.  
25 He can not claim that he is unaware of the

26 LILVI

27 1/1/4

1 Supreme Court Rules which define and determine  
2 the conduct of all Attorneys in the State of Nevada.  
3 He was notified of the Court's order by the District  
4 Attorney's Office and he received a letter with  
5 a copy of the Court's Order from the Petitioner  
6 Cesar Valenzuela. He has completely ignored and  
7 refused to comply with the Supreme Court Rules and  
8 Order of this Court. For those reasons Mr. Cesar  
9 Sanchez Valenzuela Request that Mr. Coyer should be  
10 censured by this Court imposing a fine/imprisonment  
11 of 48 hours and made to comply with this Court's  
12 Order

### 13 CONCLUSION

14 WHEREFORE all of the above stated reasons Cesar  
15 Valenzuela request this Honorable Court find Mr  
16 Coyer in contempt and impose a sanction that will  
17 insure future compliance with this Court's orders  
18 and make him comply with present orders

19 DATED THIS 18th day of June 2020

22 respectfully submitted  
23 Cesar Sanchez Valenzuela  
24 #194307  
25 P.O. Box 650  
26 Indian Springs NV 89107

EXHIBIT  
A

10-22-19


To Mr Cayer

Greetings Im hoping this letter finds you well. I writing to request all records of my case to include all compact Disc. I have requested them from you in the pas you denied my request but now there has been a court ordered for you to provide me with all records. Also I would like to see if you could file a motion for Alternate counsel to help me with my post conviction process. some of the ground for relief would be ineffective assistance. I will try to reach you by phone but there have been some locked down for stabbing and fights here at the prison so its not easy to get on the phone. I know it could be possible for you to request for me to get Alternate counsel if possible soon because my time is running out to file my Post-conviction with the courts if you could help me with this I would highly appreciate it Thank you please send me ~~copies~~ of my <sup>all</sup> records to include the compact Disc. if you check court master for Sept 3 2019 motion to withdraw Attorney Denied so Im hoping the court will highly consider Alternate counsel for my case to file all grounds

1283



for relief. When you send me copy's of  
the DISCS make sure you put my case  
number on them and my Id number.  
if for some reason you can't file for Alternate  
counsel would you please inform me soon as possible  
Thank you once again & respectfully

  
Cesar Valencia #94307  
PO box 1989  
Ely NV 89301

Gregory E. Coyer, Esq.  
Attorney At Law

600 S. Tonopah Dr., Suite 220  
Las Vegas, Nevada 89106

Tel: 702.802.3088  
Fax: 702.802.3157  
Email: gcoyer@coyerlaw.com  
www.coyerlaw.com

April 17, 2019

**VIA REGULAR U.S. MAIL TO:**

Cesar Valencia, NDOC #94307  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

**Re: Cesar Sanchez Valencia v. The State of Nevada (Direct Appeal);  
Nevada Supreme Court Docket No. 75282**

Dear Cesar:

I hope this letter finds you well. I write you today to provide you with an update on the status of your appeal. It is with much disappointment that I must notify you that your conviction was affirmed by the Nevada Supreme Court, meaning that our appeal was denied. I am also providing you the enclosed copy of the Order of Affirmance.

The court will issue a remittitur within the next couple of weeks. Please be advised that your deadline to pursue post-conviction relief through a Petition for Writ of Habeas Corpus is one (1) year from the date the remittitur is issued.

This officially concludes my legal representation of you. I wish you the best of luck in your future endeavors.

Sincerely yours,

COYER LAW OFFICE



Gregory E. Coyer, Esq.

/GEC  
Enclosure (Order of Affirmance)  
cc: file

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein  
and that on this 18th day of JUNE, 2020, I mailed a true and correct copy of this

foregoing MOTION TO HOLD GREGORY E LOYER to the following:  
IN Contempt Failure to FORWARD  
CASE file

Clerk of the Court  
200 Lewis Ave 2nd Fl  
Las Vegas NV 89155-1160

Steven B Wolfson  
District Attorney  
200 Lewis Ave  
Las Vegas NV 89155  
-1160

Gregory E Loyce - Esq  
6005 Tonopah Dr suite 220  
Las Vegas NV 89106

BY: Cecilia Klench  
#94305  
PO Box 650  
Indian Springs NV  
89707

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, MOTION TO HOLD  
GREGORY EGAYER ESQ IN CONTEMPT FOR FAILING TO FORWARD  
CASE FILE (Title of Document)

Filed in case number: C-16-315580-1

☒ Document does not contain the social security number of any person

Or

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

☐ A Specific state or federal law, to wit

\_\_\_\_\_

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 18th day of June 2020



(Signature)

Caesar Valenciano

(Print Name)

\_\_\_\_\_  
(Attorney for)



FILED

JUL 13 2020

*John L. Blum*  
CLERK OF COURT

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

Cesar Sanchez Valencia <sup>194307</sup>  
Petitioner  
✓

THE STATE OF NEVADA  
Respondent

Case No C-315580-1

Dept No 29

Docket No \_\_\_\_\_

Hearing Date August 4, 2020

Hearing Time 8:30 AM

NOTICE OF MOTION

TO: THE STATE OF NEVADA Respondent, Steven B Wolfson  
County District Attorney, and GREGORY E. COYER  
ESQ.

YOU AND OF YOU WILL PLEASE TAKE NOTICE  
that on the \_\_\_\_\_ day of \_\_\_\_\_ 2020 at the hour \_\_\_\_\_  
o'clock AM or as soon as thereafter as the parties may  
be heard the undersigned will bring on for hearing  
the attached MOTION TO HOLD GREGORY E  
COYER, ATTORNEY OF RECORD, IN CONTEMPT  
FOR FAILING TO FORWARD A COPY OF THE OR  
ENTIRE CASE FILE before the above entitled  
Court at the Regional Justice Center Court House  
in Clark County Las Vegas Nevada in Dept No 29  
Thereof

Dated this 18th day of June 2020

respectfully  
Submitted by <sup>194307</sup>  
Cesar Valencia  
pobox 650  
Indian Springs NV  
89120

RECEIVED

JUN 29 2020

CLERK OF THE COURT

1 Cesar Valencio #94307

2 / In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

FILED

OCT 12 2020

Alfonso J. Valencio  
CLERK OF COURT

5 DISTRICT COURT  
6 Las Vegas CLARK County

7 Cesar Valencio #94307

8 Plaintiff

10 vs.

11 THE STATE OF NEVADA

12 Defendants

Case No. C-16-3880-1

Dept No. 29

Docket \_\_\_\_\_

14 **NOTICE OF MOTION**

15 YOU WILL PLEASE TAKE NOTICE, that Cesar Valencio on Motion

16 To hold Gregory Coyer ESQ In Contempt For Failing to Bring case

17 will come on for hearing before the above-entitled Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

18 at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M. In Department \_\_\_\_\_, of said Court.

20 CC:FILE

22 DATED: this 28th day of September, 2020.

24 BY: Cesar Valencio  
25 h2 #94307  
26 /In Propria Personam

RECEIVED

2020 SEP 6 2020

CLERK OF THE COURT

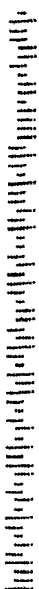
Cesar Valenzuela #94307  
PO Box 650  
Indian Springs NV 89707  
Please Return File Stamp copy

LAS VEGAS NV 890  
1 OCT 2020 PM 3 L

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3762

89101-630000



Clerk of the Court  
200 Lewis Av 3rd Fl  
Las Vegas NV 89155

HIGH DESERT STATE PRISON  
SEP 27 2020  
UNIT 8 C/D



1 Cesar Sanchez Valencia  
2 #44307  
3 Subok LSD  
4 Inches Springs 4/1/8907

**FILED**  
**AUG 25 2022**  
*Alma J. Johnson*  
CLERK OF COURT

7

pp  
DA

5  
6  
7  
8 IN THE ETG-HA DISTRICT COURT OF THE  
9 STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

10  
11 Cesar Sanchez Valencia #44307  
12 Petitioner,

CASE NUMBER: C-16-315580-1

13 vs.  
14 The STATE OF NEVADA  
15 Johnson Calvin HOB  
16 Warden, State of Nevada,  
17 Respondents.

**EX PARTE MOTION FOR**  
**APPOINTMENT OF COUNSEL AND**  
**REQUEST FOR EVIDENTIARY**  
**HEARING**

18 COMES NOW Cesar Valencia the Petitioner, in proper person, and moves this Court  
19 for its order allowing the appointment of counsel for Petitioner and for an evidentiary hearing. This  
20 motion is made and based in the interest of justice.

21 Pursuant to NRS 34.750(1):

22 A petition may allege that the petitioner is unable to pay the costs of the  
23 proceedings or to employ counsel. If the court is satisfied that the  
24 allegation of indigency is true and the petitioner is not dismissed  
25 summarily, the court may appoint counsel to represent the petitioner. In  
26 making its determination, the court may consider, among other things, the  
27 severity of the consequences facing the petitioner and whether:

- 28
- (a) The issues presented are difficult;
  - (b) The petitioner is unable to comprehend the proceedings, or

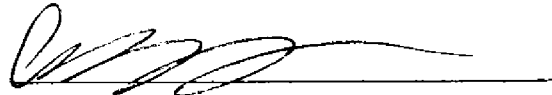
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AUG 22 2022  
CLERK OF THE COURT

1 (c) Counsel is necessary to proceed with discovery.

2 Petitioner is presently incarcerated at High Desert STATE PRISON, is  
3 indigent and unable to retain private counsel to represent him.

4 Petitioner is unlearned and unfamiliar with the complexities of Nevada state law, particularly  
5 state post-conviction proceedings. Further, Petitioner alleges that the issues in this case are complex and  
6 require an evidentiary hearing. Petitioner is unable to factually develop and adequately present the  
7 claims without the assistance of counsel. Counsel is unable to adequately present the claims without an  
8 evidentiary hearing.

9 Dated this 9th day of August, 2022.

10 

11 *In Proper Person*  
12  
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28

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is a person of such age and discretion as to be competent to serve papers.

That on April 5, 2012, he served a copy of the foregoing Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing by personally mailing said copy to:

District Attorney's Office

Address: 200 Lewis Ave  
Las Vegas NV 89155

clerk of the court  
200 Lewis Ave  
Las Vegas NV  
89155

Warden

Address:

Calvin Johnson  
High Desert STATE PRISON  
Box 650  
Indian Springs  
NV 89070

[Signature]  
Petitioner

Nevada Attorney General  
100 N Carson St  
Carson City NV 89701

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

The undersigned does hereby affirm that the preceding

Motion  
For Appointment of Counsel  
(Title of Document)

filed in District Court Case number C-16-318580-1

☒ 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]  
Signature

8-9-22  
Date

Cassandra K. [Signature]  
Print Name

Defender of  
Title



1 Cesar Sanchez Valencia  
2 #1007  
3 P.O. box 1650  
4 Indian Springs NV 89370  
5 Defendant / IM Proper person

FILED

AUG 25 2022

CLERK OF COURT

DISTRICT COURT  
CLARK COUNTY NEVADA

September 15, 2022  
9:00 AM

THE STATE OF NEVADA  
Plaintiff

✓  
Cesar Sanchez Valencia #1007  
Defendant

Case No C-16-315580-1

Dept No

NOTICE OF MOTION AND  
MOTION FOR CORRECTION  
OF AN ILLEGAL SENTENCE  
pursuant to NRS 176.555

YOU WILL PLEASE TAKE NOTICE THAT  
CESAR SANCHEZ VALENTIA, has forwarded  
for Ruling the Attached: MOTION FOR CORRECTION OF  
AN ILLEGAL SENTENCE, and that this Motion  
will come on for hearing before the above entitled  
Court on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at the hour  
of \_\_\_\_\_ o'clock in the \_\_\_\_\_ of said Court.

Please take notice

Pursuant to E.C.R. Criminal Rule 3.20 Motions, copies  
of an opposition should be supplied with:

① enough time to offer a reply;

② Findings of Facts, conclusions of law that support

this Court's reason, that Grants or Denies Defendant's  
Motion.  
Respectfully Submitted  
by Cesar Sanchez Valencia  
(Cesar Valencia) 9/15/22

RECEIVED

3 AUG 22 2022  
CLERK OF THE COURT

1. Cesar Sanchez Valencia #94307

2. P.O. box 650

3. Indian Springs NV 89070

4. Defendant/Proper  
District Court

5. Clark County, Nevada

6. the state of Nevada case no C-16-3155804

7. plaintiff Dept no XVIII

8. vs.

9.

10. Defendant

11. Cesar Sanchez

12. valencia #94307

Motion For Correction of an

Illegal Sentence

per pursuant to N.R.S 176.555

13.

14. Comes Now, Cesar Sanchez Valencia #94307

15. Defendant in Proper person, who hereby moves this

16. Court for an order to correct his illegal sentence

17. on Count 1 Assault on Protected person with

18. use of a deadly weapon, Category B Felony in

19. violation of N.R.S 200.471 Pursuant to Nevada

20. Revised Statutes NRS 176.555. A motion to

21. correct an illegal sentence is the accepted

22. vehicle in doing so. This motion is based upon

23. all documents papers, and exhibits on file herein

24. and in the state of Nevada that supports this

25. motion.

Respectfully Submitted

26. Dated this day 9th

by



27. of August 2019

Cesar Sanchez Valencia

28.

NDoc #94307  
① 1298

1. Memorandum of

2. points and Authorities

3. On February 2nd 2018 the eighth judicial District  
4. Court of Clark County, State of Nevada, Rendered a judgment  
5. of conviction (jury trial) pertaining to Cesar Sanchez Valencia,  
6. the judgment of conviction is irreparable in relation to  
7. NRS 207.016 which clearly states "2. A count pursuant  
8. to NRS 207.010, 207.012 or 207.014. IF a count  
9. pursuant to the upon NRS is included in an  
10. information charging the primary offense each  
11. priors conviction must be Alleged in the accusatory  
12. pleading but no such conviction may be Alluded  
13. to on trial of primary offense nor may any  
14. allegations of the conviction be Read in the presence  
15. of the jury trying the offense or grand jury  
16. Considering indictment for the offense.  
17. A count pursuant to NRS 207.010, 207.012 or  
18. 207.014 must be filed no less than 2 days  
19. before the start of the trial on the primary offense  
20. unless an agreement of the parties provides  
21. otherwise on the court for good cause shown  
22. makes an order extending the time. For good  
23. cause shown the prosecution may supplement or  
24. amend a count pursuant to NRS 207.010, 207.  
25. 012 or 207.014 at any time before the sentence  
26. is imposed but if such a supplement or amendment  
27. is filed the sentence must not be imposed



1.  
2. or the hearing required by Subsection 3  
3. held until 15 days after the separate filing  
4. NRS 207.016 Subsection 3. IF a defendant  
5. charged pursuant to NRS 207.010, 207.012 or  
6. 207.014 pleads guilty or guilty but mentally ill for  
7. the primary offense but denies any previous  
8. conviction charged, the court shall determine the  
9. issue of previous conviction after hearing all relevant  
10. evidence presented on the issue by the prosecution  
11. & the defendant at such hearing the defendant  
12. may not challenge validity of previous conviction  
13. the court shall impose sentence. In this case  
14. the district attorney failed to follow the procedure  
15. to file or should of been filed separate from the  
16. indictment or information charging the primary  
17. offense. the prosecution failed to file the count  
18. pursuant to NRS 207.010, 207.012, 207.014 it must  
19. be filed not less than 2 days before the start  
20. of the trial on the primary. In this case  
21. there was no agreement of the parties or the  
22. Court never made an order extending the time  
23. only for good cause shown, the prosecution may  
24. supplement or amend a count pursuant to NRS  
25. 207.010, 207.012, 207.014 at any time before  
26. the imposed, but if such a supplement or amendment  
27. is filed the sentence must not be imposed or  
28. the hearing required by Subsection 3 held until

↓

1. 15 days after the separate filing. In this case  
2. on 6-9-2016 the information was filed  
3. on five counts but no count under N.R.S  
4. 207.010, 207.012 ~~but~~ or 207.014 on the  
5. notice of intent to seek punishment as an  
6. habitual criminal filed 2-3-17 but the  
7. prosecution failed to file & follow the procedure  
8. of N.R.S 207.012 Subsection 2. District  
9. Attorney shall include a count under this  
10. Section in any information in part; subsections  
11. 3, the trial judge may not dismiss a count  
12. under this Section that is included in an indictment  
13. or information N.R.S 207.016 procedural trial  
14. of primary offense prior convictions  
15.  
16. Subsection 2 in part account pursuant to  
17. NRS 207.010, 207.012 or 207.014 may  
18. be filed separately from indictment or information  
19. charging the primary offense but must be  
20. filed not less than 2 days before the  
21. start of the trial on primary offense  
22. In this case on 11-14-17

23

24

25

26

27

28

1 parties announced ready for trial & estimate  
2 3-4 days / 6-8 witnesses, court gave pretrial  
3 instructions and directed proposed jury instructions  
4 to be provided to court by 11-17-17 at noon court  
5 ordered matter set for trial for 11-20-17, 1:00 pm  
6 jury trial on 11-16-17 court ordered trial will start  
7 11-27-17 at 11:30, court directed parties to  
8 have proposed jury instructions to be provided  
9 on the next date. the court found count  
10 2 of information is bifurcated state to file an  
11 advised offer to defendant still open on  
12 count of Felony Sale of Controlled Substance  
13 state retains right to argue at sentencing  
14 but will not seek habitual criminal treatment  
15 prosecution failed to ask the court for an  
16 order extending the time. for good cause  
17 shown the prosecution may Supplement or Amend  
18 a count pursuant to N.R. 207.010, 207.012 or  
19 207.014 at any time before the sentence is  
20 imposed, but if such a Supplement or Amendment  
21 is filed the sentence must not be imposed or the  
22 hearing required by Subsection 3 held until  
23 15 days after the separate filing. So from  
24 11-14-17 and 11-16-17 prosecution failed to  
25 request order extending time to file separate  
26 Habitual criminal which would operate  
27 to increase the sentence

1 otherwise provided by law for the principal crime  
2 of assault on protected person. Even on 11-27-12  
3 Second Amended information filed in open Court  
4 Court never gave any order for extending time  
5 to file habitual Criminal as defined in NRS  
6 202.010 a felony. See exhibit 1 here the  
7 prosecution did follow the procedure as written  
8 in NRS 202.010, 202.012, 202.014. As explained  
9 since the prosecution failed to Amend or Supplement  
10 information. Enhancement to be charged before  
11 Sentencing, why? because the habitual criminal  
12 enhancement to be charged affects the sentencing  
13 of the proceedings the legislature clearly intended  
14 that it be charged before sentencing. This  
15 statute permits the habitual criminal  
16 enhancement to be charged before sentencing.  
17 Crotcher v. Eighth Judicial Dist Court  
18 111 Nev. 1286, 903 P.2d 823, 111 Nev  
19 adv. Rep. 144, 1995 Nev Lexis 144 (Nev 1995)  
20 Enter Specht v Patterson 386 U.S 605 (1967)  
21 the Supreme Court of the United States (Scotus)  
22 had long ago explained to the states that  
23 you cannot simply subject a criminal  
24 defendant to an "enlarged" sentence beyond  
25 the penalties for his underlying conviction  
26 that is just being linked without further  
27 fact-finding e.g. prior 4303 the valid prior  
(6)

1. Felony Convictions which must include  
2. a "full panoply" of Due process protections  
3. Id at pp. 608-10. more over any criminal  
4. Statutes you utilize to impose such large  
5. sentence must have those protection specifically  
6. written into the statute as described in Specht  
7. (right to cross-examine parties, right to compulsory  
8. production of witnesses, discovery, right to offer  
9. opposing evidence everything short of a jury  
10. or else, the statute is unconstitutional &  
11. violates Due process under the Fourteenth  
12. Amendment. US Constitution as occurred when  
13. (Scoutus) struck down the Colorado law - O  
14. law in Specht Id at pp 610-11, A poorly  
15. written law can be arbitrarily applied.  
16. Significantly the court in Specht adopted  
17. the decision of the third Circuits case  
18. of United States ex rel. Gerchan v Maroney  
19. 355 F.2d 302 312 (3rd in 1966) comparing  
20. Colorado's statute (on a sex offender act  
21. for increased punishment specifically to those  
22. offenders where a habitual criminal is a distinct  
23. issue In adopting the 3rd circuits view in  
24. Gerchan Supra the court stated: It is a separate  
25. criminal proceeding, which may be invoked  
26. after conviction of one the specified crimes.  
27. Defendant Cesar Sanchez Valencia was therefore  
28. entitled to a full judicial hearing before the  
29. 304

1. Magnified Sentence was imposed at such a  
2. hearing the requirements of Due process  
3. cannot be satisfied by partial or riggorly  
4. proceeding is entitled to the full panoply  
5. of the relevant protections which Due process  
6. guarantees in state criminal proceedings.  
7. He must be afforded all those safe guards  
8. which are fundamental rights and essential  
9. to a fair trial including the right  
10. to confront and cross-examine witnesses  
11. "against him," cited in Specht v Patterson  
12. 386, US 608 at 609-10 (1967) in agreeing  
13. with that view and specifically it to  
14. Habitual criminal issues the court held:  
15. ~~DUE~~ process in other words requires that  
16. he be present with counsel have an opportunity  
17. to be heard be confronted with witnesses  
18. against him have the right to cross-examine  
19. and offer evidence of his own "Specht 386, US  
20. 308 at 610 (1967) In essence a separate proceeding  
21. is required. Moreover NRS 207.010 is a statute  
22. that constitutionally (5th, 6th and 14th  
23. Amendment) requires a separate procedure Full  
24. adversarial proceedings. Interestingly The Nevada  
25. Supreme Court itself also has cited to the case  
26. of Allen v United States 459 A2d 1145, 1149  
27. (DL 1985) in Edwards v State 918 P2d 321, 324  
28. (Nev 1996) There relief from an illegal

1. Sentence includes meeting the court of its  
2. authority or jurisdiction in imposing the sentence  
3. ID. Ax 1149. otherwise the prosecution the  
4. Attorney general office will utterly fail  
5. to actually defend NRS 207 "Racially" on  
6. in examples of how its "applied" In light  
7. of Specht. Moreover the Scotus jurisprudence  
8. in Ex Parte Siebold 100 US 371, 376-77  
9. (1899) which remains well established case  
10. authority, was heavily argued to the never  
11. Supreme Court that assuming NRS 207.010,  
12. is unconstitutional because of Specht,  
13. requirements (how its written, how it gets  
14. applied) then any unconstitutional law is no  
15. law at all it has no force of affect it is void  
16. and no legal consequence including penalty  
17. may flow from it period. See ex parte Siebold  
18. at 376-77. That is the law of the land.  
19. therefore it would be a "fundamental miscarriage  
20. of justice" to hold someone prisoner on an  
21. legal unenforceable law per Coleman v  
22. Thompson 501 U.S. 722, 750 (1991)  
23. "the use of procedural bars" to deny relief  
24. would be laughable. Take for example  
25. the defendants whose lack of presence at  
26. prior sentencing proceeding renders the  
27. sentence unconstitutional as seen in Kentucky  
28. V Stiner 482 US 738, 745 (1987) and yet

1 the prosecution wants to argue some aspect  
2 of this prior conviction / sentencing to obtain  
3 a habitual criminal adjudication in Nevada  
4 Under N.R.S. 207.016(3) defendant cannot  
5 make any attack on validity of priors  
6 but the court imposed habitual criminal  
7 on invalid or better yet compare U.S. v.  
8 Tucker 404 U.S. 443, 448-49 (1972) it is  
9 unlawful to impose habitual felon sentence  
10 on an invalid priors). See exhibit 2 on  
11 Case #C224528 Second amended judgement  
12 of conviction page 2 line 3. Therefore on  
13 the 29<sup>th</sup> day of March 2007 the defendant  
14 was not present in court and was not  
15 represented by counsel. This sentence was  
16 an illegal and the court amend. Defendant  
17 request this court for an order to correct  
18 the illegal sentence for a statute identical  
19 to Nev. Rev. Stats 176.555 is one at  
20 variance with the controlling sentencing  
21 statute or illegal in the sense that  
22 since the court goes beyond its authority  
23 by acting without jurisdiction or imposing  
24 a sentence in excess of the statutory  
25 maximum provided Second Amended info  
26 Filed in open court 11-27-17 see exhibit 3  
27 3 page 2 line count 1 Assault on protected  
28 person with use of a deadly weapon (category B



1 (Felony) NRS 200.471 - NDC 50205. Review  
2 of the hearing on 1-25-18. The prosecution  
3 certified of prior judgement of convictions.  
4 The court admitted justice exhibit Nos  
5 1-4. Then court adjudicated the defendant  
6 under small habitual criminal statute. In  
7 accordance with the laws of the state of  
8 Nevada but district court lacked jurisdiction  
9 to sentence defendant as a habitual  
10 criminal because the state failed to file  
11 with the district court before trial or no  
12 order by the court to extend time to file  
13 before sentence hearing and no information  
14 on indictment contains count the allegation  
15 that defendant was a habitual criminal  
16 Grey v State 124 NEV. 110 178. P3d 154  
17 124 NEV. adv. Rep 112008 NEV Lexis 15  
18 (NEV.2008). the decision of the Nevada  
19 Supreme Court in edwards v State 918  
20 p2d 321 (112 NEV 704 allow) a remedy  
21 for relief from an illegal sentence. In  
22 accordance the sentencing violation must show  
23 to be facially illegal or that the judge  
24 went beyond its authority by acting without  
25 jurisdiction is  
26 "Time constraints and procedural defaults  
27 necessarily do not apply" ; see edwards Spr.  
28 ;;

1. I. ARGUMENT:

2. 1. The only amended information in case #  
3 C-16315580-1 filed on 11-27-17 count 1  
4 Assault on protected person with use of  
5 of deadly weapon (category B felony) NRS  
6 200.471. NOC 50205 see exhibit 3.  
7 Nothing is as to charging the habitual  
8 Criminal Statute only NRS 207.010,  
9 207.012, 207.014 undubiously the larger  
10 in the habitual criminal statute can be  
11 interpreted; that the habitual criminal  
12 is to be showing on any information of  
13 each prior conviction and the alleged  
14 offense committed by the accused constitutes  
15 a violation of subparagraph (1) shall be  
16 punished for category A felony by imprisonment  
17 in the state prison for life. Subsection 3  
18 The trial judge may not dismiss a count  
19 under this section that is included in an  
20 indictment or information on 1-25-18. Court  
21 stated that time set for entry of judgment  
22 and imposition of sentence is there any  
23 legal cause or reason why judgment should  
24 not be pronounced at this time. The court  
25 stated by verdict of the jury, I hereby  
26 judge the defendant guilty of the offense  
27 Count 1 Assault on protected person with  
28 use of deadly weapon So the prosecution  
29 309  
30 (2)

1. in this case the state is seeking habitual  
2. treatment. Prosecution Stated that the filed  
3. habitual criminal notice specifically on  
4. February 3rd 2017. So here today prosecution  
5. had in their possession four judgments  
6. of conviction detailing the felonies on state  
7. notice of habitual Sentence NOS 4-9  
8. the court admitted copies of prior convictions  
9. the prosecution Count 1 Assault, the assault  
10. with deadly weapon was asking for large  
11. habitual Sentence of 10 to life and that  
12. the court imposed that sentence. the court  
13. then asked the prosecutor, so let me make sure  
14. I understand your argument on Count 1  
15. your asking for the large habitual criminal,  
16. the prosecution stated "yes" that's correct  
17. but the prosecution never included Count  
18. on my information the court only had  
19. jurisdiction to sentence on NRS 200.471  
20. on Count 1 Habitual criminal is not automatic  
21. and legislative clearly intended to be charged  
22. before sentencing NRS 207.010 was never  
23. included in court. this failing of a separate  
24. Count procedure is shown being followed in  
25. the second (2nd judicial District Court of  
26. Washoe County. See exhibit 1. Consisting of  
27. Second Amended information filed in the  
28. District Court regarding defendant,

1 a firearm and in violation of Nevada's  
2 Habitual Criminal act NRS 202.010 for  
3 having been convicted of three prior felonies  
4 on the second count (re. violation of Nevada's  
5 habitual criminal act) he was adjudged guilty  
6 and sentenced to life in prison. see 418  
7 P2d at 803, 804.

8 Another Supreme Court case that supports  
9 a district court exercising jurisdiction to  
10 sentence on a habitual criminal showing  
11 as a separate count.

12 French v. State 98 Nev 235, 645 P2d  
13 440 (1982) In French v State "the Supreme  
14 Court held that the district court has  
15 jurisdiction to dismiss habitual criminal  
16 count in information at any time prior to  
17 sentencing" the forementioned language  
18 supports the habitual criminal charged  
19 as a separate count. This argument is  
20 long overdue and warrants a just determination.  
21 there is no dispute asserting that Nevada  
22 law requires that the habitual criminal  
23 be charged as a separate count See exhibit  
24 1 and EXHIBIT 5 Sentencing Memorandum

25 In argument and authority our law requires  
26 that a separate count be filed when alleging  
27 and requesting an adjudication of habitual  
28 criminal status when information is filed"

## 1 II Argument

2 A judge cannot dismiss or Sentence  
3 a defendant on a count (per MRS 202.020  
4 that is not charged see exhibit 3  
5 Count 1 defendant amended information.  
6 IF the charging document is void of charges  
7 the court requires no jurisdiction, thus  
8 is without Authority to include a sentence  
9 in the judgment. see exhibit 4.  
10 the judgment of conviction is fatally flawed  
11 facially illegal based on the following  
12 facts  
13 the habitual criminal Statute is not  
14 charged nor can it be proved as  
15 the court sentenced on 11-25-18, Defend  
16 guilty of said offenses as set forth  
17 in the jury verdict under small habitue)  
18 criminal Statute as to Count 1 Assault  
19 French and Hollender Supra show the  
20 habitual criminal Statute changed as a  
21 separate count which makes the way its  
22 applied prosecuted in this case contrary to  
23 United States Constitutional law as  
24 defined in City of Cleburne Tex V. Cleburne  
25 Living Center 105 set 3247 at 3254 U.S  
26 Tex (1985) the equal protections clause  
27 of the fourteenth amendment commands  
28 that no State shall deny to any

1 Person within its jurisdiction the equal protection  
2 of the laws" which is essentially a direction that all  
3 persons similarly situated should be treated alike  
4 Plyer v. Doe 457 U.S. 202, 216 102 S.Ct. 2382  
5 2394 (1982). There is no dispute enclosed as  
6 evidence is a sentence memorandum filed by deputy  
7 District Attorney Bruce L. Hahn and endorsed by  
8 District Attorney Richard A. Gammick #001510 in  
9 Second Judicial District Court asserting that Nevada  
10 Law requires that the Habitual Criminal be  
11 charged as separate Court see EXHIBITS  
12 P. 4 L. 21. This is Filed Sentencing memorandum  
13 Dated July 13 1999 - ON P. 4 line 21 Quote "  
14 Argument AND Authority, per Law requires that  
15 a Separate Court be held when alleging and  
16 requesting an adjudication of Habitual criminal  
17 when an information is filed."

18 the Argument

19 There is no disputing this line of argument, this  
20 Jurisdiction for years has been sentencing defendants  
21 illegally; Illegally makes doing so knowingly,  
22 willingly, intentionally a crime and immorality  
23 does not apply - ONCE JURISDICTION IS CHALLENGED  
24 THE BURDEN SHIFTS TO THE COURT TO PROVE  
25 JURISDICTION, Rosemond v Lambert 474 F.2d  
26 215

27 This Jurisdiction denies Motions for Correction  
28 of an ILLEGAL Sentence without FINDINGS

OF FACTS AND CONCLUSIONS OF LAW  
that is supported being done in the following  
Supreme Court Case law i.e. - On July 31, 2008  
the State district court Ruled its findings  
of fact and conclusions of law denying the  
MOTION TO CORRECT AN ILLEGAL SENTENCE  
SPEIDEL VS DIST CT 2009 US DIST.  
LETS 105278.

Defendant Cesar Sanchez Valencia in this case  
is guaranteed the EQUAL protection of Law under  
the UNITED STATES Constitution, 14th  
437 US 202 216 102 SCT 2382, 2394 (1988)  
Defendant Cesar Sanchez Valencia asserts this  
Habitual Criminal Statute NR 8207.012 is  
ambiguous supported by the way it's Application  
is interpreted and applied. NOTICE In one Juris  
diction and separate court is another as  
supported by EXHIBIT 5 Sentence Memorandum  
and EXHIBIT 1 Amended Information.

This ambiguity that cannot be explained away  
arguably fits the void-for-vagueness doctrine that  
is predicated upon a statutes repugnance to the  
due process clause of the Fourteenth Amendment  
to the UNITED STATES Constitution 6 § 12 49 P3d  
6853 a statute is unconstitutional vague and  
Subject to facial attack if it - (2) lacks specific  
standards, thereby encouraging authorities

1 for even failing to prevent arbitrary and  
2 discriminatory enforcement, - the second and  
3 more important ~~point~~ <sup>thing</sup> is more important  
4 because absent adequate guidelines, a criminal  
5 statute may permit a standardless sweep  
6 which would allow the police, prosecutors  
7 and judges to pursue interpersonal predations  
8 Kolander 461 U.S. at 358 (internal quotation  
9 marks omitted).

10 Alternative offenses must be charged  
11 in separate Counts. Jenkins v Fourth  
12 Judicial District Court, 109 Nev 357  
13 899 P2d 1055 109 Nev adv. Rep 50  
14 1993 Nev Lexis 53 (Nev 1993).

#### 15 IV Final Argument

16 Attached as EXHIBIT 6 are two judgments  
17 that support ~~Defendants~~ being sentenced  
18 on Habitual Criminal Counts giving  
19 reference to said Count i.e., Habitual  
20 Criminal pursuant to NRS 207.010  
21 showing to be charged in an information  
22 that was amended.  
23 no doubt this is what gives the sentencing  
24 Judge jurisdiction to sentence a  
25 defendant as a Habitual criminal,  
26 without the charging document showing  
27



1 a defendant being charged on a Habitual  
2 Criminal NRS 207.010, 207.012 or 207.  
3 014 as a separate count the court/Judge  
4 never acquires jurisdiction,  
5

6 IN the instant case Cesar Sanchez  
7 Valencía was not charged or sentenced  
8 on a Habitual Criminal Count See ~~EXHIBIT~~  
9 3 and 4 Defendants Judgment of Conviction  
10 making his Sentence, legal and the Judgment  
11 of conviction invalid,

12 It is the duty of this Court to weigh the  
13 arguments in the Motion that should  
14 compel this Court to give an Honorable  
15 determination that coincides with the  
16 correction of defendants, illegal sentence,  
17 CONCLUSION

18 Based on all of the above Defendants/  
19 Prisoner Cesar Sanchez Valencía has  
20 demonstrated that his sentence is illegal  
21 and as such his sentence should be  
22 vacated on punishment as a habitual  
23 Criminal. It is the prayer of Cesar  
24 Sanchez Valencía defendant and his  
25 many fellow prisoners that so order an  
26 Unlawful unconstitutional imprisonment  
27

1 contributed to the application of NRS  
2 207.010, 207.012 and 207.014 that this  
3 Honorable Court will render its decision  
4 based on the laws it Vowed to uphold

5  
6 DATED this 9th day of August 2022  
7


8  
9 respectfully Submitted  
10 by   
11 Cesar Sanchez Valencia  
12 #94307  
13 P.O. Box 650  
14 Indian Springs NV  
15 89020  
16 Defendant / Petitioner  
17  
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26  
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EXHIBIT 1

EXHIBIT

ONE

EXHIBIT 1

DA #149006

RPD 084017/257-97

1 Case No. CR97-1110

2 Dept. No. 1

3

4

5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE

8

\* \* \*

9 THE STATE OF NEVADA,

10

Plaintiff,

11

v.

AMENDED  
INFORMATION

12 HOWARD LEE WHITE,

13

Defendant.

14

15

16 RICHARD A. GAMMICK, District Attorney within and for  
17 the County of Washoe, State of Nevada, in the name and by the  
18 authority of the State of Nevada, informs the above entitled  
19 Court that HOWARD LEE WHITE, the defendant above named, has  
20 committed the crimes of:

21

COUNT I. BATTERY CAUSING SUBSTANTIAL BODILY HARM, a  
violation of NRS 200.481, a felony, in the manner following:

22 That the said defendant on the 16th day of April A.D.  
23 1997, or thereabout, and before the filing of this Information,  
24 at and within the County of Washoe, State of Nevada, did  
25 willfully and unlawfully use force and violence upon the person  
26 of Ms. JONES, by pouring scalding coffee on Ms. JONES, at 1301

FILED

'97 NOV 26 P2:36

JUDICIAL DISTRICT COURT

1 Valley Road, Reno, Washoe County, Nevada, such force and violence  
2 causing substantial bodily harm to the said Ms. JONES.

3 COUNT II. BURGLARY, a violation of NRS 205.060 and NRS  
4 193.165, a felony, in the manner following:

5 That the said defendant on the 16th day of April A.D.  
6 1997, or thereabout, and before the filing of this Information,  
7 at and within the County of Washoe, State of Nevada, did  
8 willfully and unlawfully enter a certain shop located at 155  
9 South Arlington Avenue, Washoe County, Nevada, and being the shop  
10 of Ms. LOWDEN, with the intent then and there to commit larceny  
11 and/or robbery therein and did have in his possession a deadly  
12 weapon, to wit: a knife.

13 COUNT III. ATTEMPTED ROBBERY WITH THE USE OF A DEADLY  
14 WEAPON, a violation of NRS 193.330, being an attempt to violate  
15 NRS 200.380 and NRS 193.165, a felony, in the manner following:

16 That the said defendant on the 16th day of April A.D.  
17 1997, or thereabout, and before the filing of this Information,  
18 at and within the County of Washoe, State of Nevada, did  
19 willfully and unlawfully attempt to take personal property, to  
20 wit: money and/or property, from the person of TONI LOWDEN, at  
21 155 South Arlington Avenue, Washoe County, Nevada, against her  
22 will, and by means of fear of immediate or future injury to her  
23 person and with the use of a box cutter-type knife, which the  
24 said defendant used to threaten the victim.

25 COUNT IV. BEING AN HABITUAL CRIMINAL, as defined in  
26 NRS 207.010,

1 That the said defendant, HOWARD LEE WHITE, is an  
2 habitual criminal in that the said defendant has, prior to the  
3 date alleged in the other counts of this Information previously  
4 been convicted of the following criminal offenses:

5 No. 1: Burglary and Being an Habitual Criminal

6 That on June 2, 1987, the aid defendant, HOWARD LEE  
7 WHITE, was convicted out of Clark County, Nevada, case number  
8 C77218 for the crimes of Burglary, a felony, and Being an  
9 Habitual Criminal under the laws of the State of Nevada.

10 No. 2: Sale of Credit Card of Another

11 That on August 24, 1987 the said defendant, HOWARD LEE  
12 WHITE, was convicted out of Clark County, Nevada, case number  
13 C78237 for the crime of Sale of Credit Card of Another, a felony  
14 under the laws of the State of Nevada.

15 No. 3: Possession of a Controlled Substance

16 That on April 6, 1982, the said defendant, HOWARD LEE  
17 WHITE, was convicted out of Clark County, Nevada, case number  
18 C52851 for the crime of Possession of a Controlled Substance, a  
19 felony under the laws of the State of Nevada.

20 No. 4: Operating a Motor Vehicle Without the Consent  
21 of the Owner, and Carrying a Concealed Weapon

22 That on August 10, 1972, the said defendant, HOWARD LEE  
23 WHITE, was convicted out of the Circuit Court, of the City of St.  
24 Louis, case number 72-474, for the crimes of Operating a Motor  
25 Vehicle Without the Consent of the Owner, and Carrying a  
26 Concealed Weapon, a felony under the laws of the State of Missouri.

1           No. 5: Possession of a Controlled Substance

2           That on June 13, 1968, the said defendant, HOWARD LEE  
3 WHITE, was convicted out of the Circuit Court, of the City of St.  
4 Louis, case number 2193-P, for the crime of Possession of a  
5 Controlled Substance, a felony under the laws of the State of  
6 Missouri.

7           No. 6: Burglary Second Degree

8           That on April 26, 1966, the said defendant, HOWARD LEE  
9 WHITE, was convicted out of the Circuit Court, of the City of St.  
10 Louis, case number 370-0, for the crimes of Burglary Second  
11 Degree, a felony under the laws of the State of Missouri.

12  
13           All of which is contrary to the form of the Statute in  
14 such case made and provided, and against the peace and dignity of  
15 the State of Nevada.

16                           RICHARD A. GAMMICK  
17                           District Attorney  
18                           Washoe County, Nevada

19           By: 

20                           ROBERTO PUENTES  
21                           Deputy District Attorney  
22  
23  
24  
25  
26

1 DA #176892

2 RPD 064844-99

1 Case No. CR99-0636

2 Dept. No. 1

99 MAY 24 AIO:50  
AM  
BY *[Signature]*  
DEPUTY

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE.

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

SECOND AMENDED  
INFORMATION

12 DANNY LEE WILLIAMS,  
13 also known as  
14 DANNY HOYOPATUBBI,

15 Defendant.

16 RICHARD A. GAMMICK, District Attorney within and for  
17 the County of Washoe, State of Nevada, in the name and by the  
18 authority of the State of Nevada, informs the above entitled  
19 Court that DANNY LEE WILLIAMS, also known as DANNY HOYOPATUBBI,  
20 the defendant above named, has committed the crimes of:

21 COUNT I. EX-FELON IN POSSESSION OF A FIREARM, a  
22 violation of NRS 202.360, a felony, in the manner following, to  
23 wit:

24 That the said defendant on or between the 9th day of  
25 March, 1999, and the 10th day of March, 1999, at Reno Township,  
26 within the County of Washoe, State of Nevada, did willfully,



1 unlawfully, and knowingly, having been previously convicted in  
2 the County of San Joaquin, State of California, of the crime of  
3 EX-CONVICT IN POSSESSION OF A FIREARM, a felony under the laws of  
4 the State of California, have in his possession and under his  
5 dominion, custody, and control, a Ruger P-90 .45 caliber handgun,  
6 and/or did willfully, unlawfully, and knowingly, having  
7 been previously convicted in the County of San Joaquin, State of  
8 California, of the crime of FELON IN POSSESSION OF A FIREARM, a  
9 felony under the laws of the State of California, have in his  
10 possession and under his dominion, custody, and control, a Ruger  
11 P-90 .45 caliber handgun,

12 and/or did willfully, unlawfully, and knowingly, having  
13 been previously convicted in the county of San Joaquin, State of  
14 California, of the crime of RECEIVING STOLEN PROPERTY, a felony  
15 under the laws of the State of California, have in his possession  
16 and under his dominion, and control, a Ruger P-90 .45 caliber  
17 handgun.

18 COUNT II. BEING A HABITUAL CRIMINAL, as defined in NRS  
19 207.010, a felony.

20 That the said defendant, DANNY LEE WILLIAMS, also known  
21 as DANNY HOYOPATUBBI, is a habitual criminal in that the said  
22 defendant has, prior to the date alleged in the other count of  
23 this Information previously been convicted of the following  
24 criminal offenses:

25 ///

26 ///

1           No. 1: RECEIVING STOLEN PROPERTY

2           That on April 4, 1986, the said defendant, DANNY LEE  
3 WILLIAMS, also known as DANNY HOYOPATUBBI, was convicted in the  
4 Superior Court of San Joaquin County, California of the crime of  
5 RECEIVING STOLEN PROPERTY, a felony under the laws of the situs  
6 of the crime and the State of Nevada.

7           No. 2: EX-CONVICT IN POSSESSION OF A FIREARM

8           That on or about March 9, 1988, the said defendant,  
9 DANNY LEE WILLIAMS, also known as DANNY HOYOPATUBBI, was  
10 convicted in the Superior Court of San Joaquin County, California  
11 of the crime of EX-CONVICT IN POSSESSION OF A FIREARM, a felony  
12 under the laws of the situs of the crime and the State of Nevada.

13           No. 3: RECEIVING STOLEN PROPERTY and/or POSSESSION OF  
14 ACCESS CARD WITH INTENT TO DEFRAUD

15           That on or about September 25, 1989, the said  
16 defendant, DANNY LEE WILLIAMS, also known as DANNY HOYOPATUBBI,  
17 was convicted in the Superior Court of Calaveras County,  
18 California of the crime of RECEIVING STOLEN PROPERTY and/or  
19 POSSESSION OF ACCESS CARD WITH INTENT TO DEFRAUD, a felony under  
20 the laws of the situs of the crime and the State of Nevada.

21           No. 4: FELON IN POSSESSION OF A FIREARM

22           That on or about October 19, 1993, the said defendant,  
23 DANNY LEE WILLIAMS, also known as DANNY HOYOPATUBBI, was  
24 convicted in the Municipal Court of San Joaquin County,

25 ///

26 ///

1 California of the crime of FELON IN POSSESSION OF A FIREARM, a  
2 felony under the laws of the situs of the crime and the State of  
3 Nevada.

4  
5 All of which is contrary to the form of the Statute in  
6 such case made and provided, and against the peace and dignity of  
7 the State of Nevada.

8 RICHARD A. GAMMICK  
9 District Attorney  
Washoe County, Nevada

10  
11 By:   
12 BRUCE C. HAHN  
13 Deputy District Attorney  
14  
15  
16  
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26

EXHIBIT 2

EXHIBIT  
TWO

EXHIBIT 2

1 JOCP

FILED

5 49 AM '07

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

2 THE STATE OF NEVADA,

3 Plaintiff,

CASE NO. C224558

4 -vs-

DEPT. NO. XIV

5 CESAR VALENCIA  
6 aka Cesar Sanchaz Valencia  
7 #1588390

8 Defendant.

9  
10  
11  
12  
13  
14  
15  
16 SECOND AMENDED  
17 JUDGMENT OF CONVICTION

18  
19 The Defendant previously appeared before the Court with counsel and entered a  
20 plea of guilty to the crime of POSSESSION OF STOLEN VEHICLE (Category C Felony)  
21 in violation of NRS 205.273; thereafter, on the 13<sup>th</sup> day of November, 2006, the  
22 Defendant was present in court for sentencing with his counsel, MARISA BORDER,  
23 Deputy Public Defender, and good cause appearing,  
24

25 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense and, in  
26 addition to the \$25.00 Administrative Fee, the Defendant was sentenced as follows: TO  
A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-  
FOUR (24) MONTHS, in the Nevada Department of Corrections (NDC), to run

CLERK OF THE COURT

MAY 29 2007

RECEIVED

1 CONSECUTIVE to C223991; with ONE HUNDRED EIGHTY-FOUR (184) days credit  
2 for time served.

3  
4 THEREAFTER, on the 29<sup>th</sup> day of March, 2007, the Defendant was not present  
5 in court and was not represented by counsel, and good cause appearing to amend the  
6 Judgment of Conviction; now therefore,

7 IT WAS THEREBY ORDERED the Defendant's sentence to be amended to  
8 delete CONSECUTIVE to C223991 time.

9  
10 THEREAFTER, on the 14<sup>TH</sup> day of May, 2007, the Defendant was not present in  
11 court but was represented by his counsel, BRYAN COX, Deputy Public Defender, and  
12 good cause appearing to again amend the Judgment of Conviction; now therefore,

13 IT IS HEREBY ORDERED the Defendant's sentence be MODIFIED to reflect  
14 that it is to run CONCURRENT with C223991.  
15

16  
17 DATED this 23<sup>RD</sup> day of May, 2007


18  
19   
20 KK DONALD M. MOSLEY  
21 DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28

EXHIBIT 3

EXHIBIT  
THREE

EXHIBIT 3

  
CLERK OF THE COURT

INFM  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
RACHEL O'HALLORAN  
Deputy District Attorney  
Nevada Bar #012840  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

I.A. 06/10/16  
10:00 A.M.  
PD S LISK

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEASAR SANCHAZ VALENCIA,  
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: II

INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having committed the crimes of **ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50205); OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460); TRAFFICKING IN CONTROLLED SUBSTANCE (Category B Felony - NRS 453.3385.1 - NOC 51156); and POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony - NRS 453.336 - NOC 51127)**, on or about the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,



1 COUNT 1 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY  
2 WEAPON

3 did willfully, unlawfully, feloniously and intentionally place another person in  
4 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully  
5 attempt to use physical force against another person, to-wit: J. JACOBITZ, a protected person  
6 employed as a Police Officer with Las Vegas Metropolitan Police Department, while J.  
7 JACOBITZ was performing his duties as a Police Officer with Las Vegas Metropolitan Police  
8 Department, which Defendant knew, or should have known, that J. JACOBITZ was a Police  
9 Officer with Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit:  
10 a firearm, by pointing said firearm at the said Officer J. JACOBITZ.

11 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

12 did willfully, unlawfully, and feloniously own, or have in his possession and/or under  
13 his custody or control, a firearm, to-wit: a .38 caliber revolver, the Defendant being a convicted  
14 felon, having in 2006, been convicted of Possession of Stolen Vehicle, in Case No. C224558,  
15 and/or having in 2007, been convicted of Unlawful Possession of Electronic Stun Device and  
16 Possession of Burglary Tools and Possession of Stolen Vehicle and Burglary, in Case No.  
17 223991, in the Eighth Judicial District Court, Clark County, felonies under the laws of the  
18 State of Nevada.

19 COUNT 3 - TRAFFICKING IN CONTROLLED SUBSTANCE

20 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either  
21 actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 11.8  
22 grams of Heroin, or any mixture of substance consisting of approximately 11.8 grams  
23 containing the controlled substance Heroin.

24 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE

25 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a  
26 controlled substance, to-wit: Cocaine.

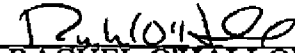
27 ///

28 ///

1 COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a  
3 controlled substance, to-wit: Methamphetamine.

4 STEVEN B. WOLFSON  
5 Clark County District Attorney  
6 Nevada Bar #001565

7 BY   
8 RACHEL O'HALLORAN  
9 Deputy District Attorney  
10 Nevada Bar #012840

11 Names of witnesses known to the District Attorney's Office at the time of filing this  
12 Information are as follows:

11	<u>NAME</u>	<u>ADDRESS</u>
12	BARLOW, DAWN or designee	CCDA/INVESTIGATOR
13		200 LEWIS AVE 9TH FLR
		LV NV 89155
14	BRYANT, K.	LVMPD P#7773
15	CUSTODIAN OF RECORDS	CCDC
16	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
17	CUSTODIAN OF RECORDS	LVMPD/RECORDS
18	GOODRICH, A.	LVMPD P#9198
19	HOFFMAN, J.	LVMPD P#9001
20	HOUSTON, C.	LVMPD P#13249
21	JACOBITZ, J.	LVMPD P#9383
22	KLOSTERMAN, O.	LVMPD P#1317
23	LEFEBVRE, N.	LVMPD P#8383
24	WHITMARSH, B.	LVMPD P35645

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27 16F08334X/pm/L-2  
28 LVMPD EV#1605193387  
(TK8)

ORIGINAL

1 AINF  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHAD LEXIS  
6 Deputy District Attorney  
7 Nevada Bar #010391  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

NOV 27 2017

BY: Alan Paul Castle  
ALAN PAUL CASTLE, SR, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-16-315580-1

11 -vs-

DEPT NO: XVIII

12 CEASAR SANCHAZ VALENCIA,  
13 #1588390

SECOND AMENDED  
INFORMATION

14 Defendant.

15 STATE OF NEVADA }  
16 COUNTY OF CLARK } ss.

17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State  
18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having  
20 committed the crimes of ASSAULT ON A PROTECTED PERSON WITH USE OF A  
21 DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50205); TRAFFICKING  
22 IN CONTROLLED SUBSTANCE (Category B Felony - NRS 453.3385.1 - NOC 51156);  
23 and POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony - NRS  
24 453.336 - NOC 51127), on or about the 19th day of May, 2016, within the County of Clark,  
25 State of Nevada, contrary to the form, force and effect of statutes in such cases made and  
26 provided, and against the peace and dignity of the State of Nevada,

27 //

28 //

C-16-315580-1  
AINF  
Amended Information  
4700792



W:\2016\2016F083\34\16F08334-AINF-(VALENCIA\_CEASAR)-002.DOCX

1 COUNT 1 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY  
2 WEAPON

3 did willfully, unlawfully, feloniously and intentionally place another person in  
4 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully  
5 attempt to use physical force against another person, to-wit: J. JACOBITZ, a protected person  
6 employed as a Police Officer with Las Vegas Metropolitan Police Department, while J.  
7 JACOBITZ was performing his duties as a Police Officer with Las Vegas Metropolitan Police  
8 Department, which Defendant knew, or should have known, that J. JACOBITZ was a Police  
9 Officer with Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit:  
10 a firearm, by pointing said firearm at the said Officer J. JACOBITZ.

11 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either  
13 actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 11.8  
14 grams of Heroin, or any mixture of substance consisting of approximately 11.8 grams  
15 containing the controlled substance Heroin.

16 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE


17 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a  
18 controlled substance, to-wit: Cocaine.

19 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE

20 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a  
21 controlled substance, to-wit: Methamphetamine.

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

24 BY

  
25 CHAD LEXIS  
26 Deputy District Attorney  
Nevada Bar #010391

27 //

28 //

1 Names of witnesses known to the District Attorney's Office at the time of filing this  
2 Information are as follows:

3	<u>NAME</u>	<u>ADDRESS</u>
4	BARLOW, DAWN or designee	CCDA/INVESTIGATOR
5		200 LEWIS AVE 9TH FLR
		LV NV 89155
6	BRYANT, K.	LVMPD P#7773
7	CUSTODIAN OF RECORDS	CCDC
8	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
9	CUSTODIAN OF RECORDS	LVMPD/RECORDS
10	GOODRICH, A.	LVMPD P#9198
11	HOFFMAN, J.	LVMPD P#9001
12	HOUSTON, C.	LVMPD P#13249
13	JACOBITZ, J.	LVMPD P#9383
14	KLOSTERMAN, O.	LVMPD P#1317
15	LEFEBVRE, N.	LVMPD P#8383
16	WHITMARSH, B.	LVMPD P35645

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27 16F08334X/pm/L-2/ckb  
28 LVMPD EV#1605193387  
(TK8)

ORIGINAL

AINF  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
CHAD LEXIS  
Deputy District Attorney  
Nevada Bar #010391  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

LED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

DEC - 1 2017

4:35 P.M.

BY: Alan Paul Caste  
ALAN PAUL CASTEE, SR. DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-16-315580-1  
AINF  
Amended Information  
4701939



THE STATE OF NEVADA,

Plaintiff,

-vs-

CEASAR SANCHAZ VALENCIA,  
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: XVIII

THIRD AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having committed the crimes of **OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, , on or about the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a firearm, to-wit: a .38 caliber revolver, the Defendant being a convicted felon, having in 2006, been convicted of Possession of Stolen Vehicle (Felony), in Case No. C224558, and/or having in 2006, been convicted of Unlawful Possession of Electronic Stun Device (Felony), Possession of Stolen Vehicle (Felony) and

1 Burglary(Felony), in Case No. C223991, in the Eighth Judicial District Court, Clark County,  
2 felonies under the laws of the State of Nevada.

3 STEVEN B. WOLFSON  
4 Clark County District Attorney  
Nevada Bar #001565

5 BY

6   
CHAD LEXIS  
7 Deputy District Attorney  
Nevada Bar #010391

8  
9 Names of witnesses known to the District Attorney's Office at the time of filing this  
10 Information are as follows:

11	<u>NAME</u>	<u>ADDRESS</u>
12	BARLOW, DAWN or designee	CCDA/INVESTIGATOR
13		200 LEWIS AVE 9TH FLR
		LV NV 89155
14	BRYANT, K.	LVMPD P#7773
15	CUSTODIAN OF RECORDS	CCDC
16	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
17	CUSTODIAN OF RECORDS	LVMPD/RECORDS
18	GOODRICH, A.	LVMPD P#9198
19	HOFFMAN, J.	LVMPD P#9001
20	HOUSTON, C.	LVMPD P#13249
21	JACOBITZ, J.	LVMPD P#9383
22	KLOSTERMAN, O.	LVMPD P#1317
23	LEFEBVRE, N.	LVMPD P#8383
24	WHITMARSH, B.	LVMPD P35645

25  
26  
27 16F08334X/pm/L-2/ckb  
28 LVMPD EV#1605193387  
(TK8)

EXHIBIT 4

EXHIBIT  
FOUR

EXHIBIT 4



*Steven D. Grierson*

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEASAR SANCHAZ VALENCIA  
#1588390

Defendant.

CASE NO. C-16-315580-1

DEPT. NO. XVIII

JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1  
– ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON  
(Category B Felony) in violation of NRS 200.471, COUNT 2 - TRAFFICKING IN  
CONTROLLED SUBSTANCE (Category B Felony) in violation of NRS 453.3385.1,  
COUNT 3 – POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony) in  
violation of NRS 453.336, COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE  
(Category E Felony) in violation of NRS 453.336, COUNT 5 – OWNERSHIP OR  
POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in  
violation of NRS 202.360, and the matter having been tried before a jury and the

1 Defendant having been found guilty of the crimes of COUNT 1 – ASSAULT ON A  
2 PROTECTED PERSON WITH USE OF A DEADLY WEAPON (Category B Felony) in  
3 violation of NRS 200.471, COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE  
4 (Category B Felony) in violation of NRS 453.3385.1, COUNT 3 – POSSESSION OF  
5 CONTROLLED SUBSTANCE (Category E Felony) in violation of NRS 453.336,  
6 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony) in  
7 violation of NRS 453.336, COUNT 5 – OWNERSHIP OR POSSESSION OF FIREARM  
8 BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360;  
9 thereafter, on the 25<sup>TH</sup> day of January, 2018, the Defendant was present in court for  
10 sentencing with his counsel, Gregory Coyer, Esq. and Alexis Plunkett, Esq., and good  
11 cause appearing,  
12  
13

14 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses as set forth in  
15 the Jury's verdict under the SMALL HABITUAL Criminal Statute as to COUNT 1 and, in  
16 addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee  
17 including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the  
18 Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows:  
19  
20 **COUNT 1** - a MAXIMUM of TWO HUNDRED AND FORTY (240) MONTHS with a  
21 MINIMUM parole eligibility of EIGHTY-FOUR (84) MONTHS; **COUNT 2** - a MAXIMUM  
22 of SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR  
23 (24) MONTHS, CONSECUTIVE to COUNT 1; **COUNT 3** - a MAXIMUM of FORTY-  
24 EIGHT (48) MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS,  
25 CONCURRENT with COUNT 2; **COUNT 4** - a MAXIMUM of FORTY-EIGHT (48)  
26 MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS, CONCURRENT  
27 with COUNT 3; **COUNT 5** - a MAXIMUM of SEVENTY-TWO (72) MONTHS with a  
28

1 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
2 COUNT 4; with SIX HUNDRED AND FIFTEEN (615) DAYS credit for time served. The  
3 AGGREGATE TOTAL sentence is THREE HUNDRED AND TWELVE (312) MONTHS  
4 MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF ONE HUNDRED AND EIGHT  
5 (108) MONTHS.  
6

7  
8 DATED this 2 day of FEB, 2018.  
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13 MARK B. BAILUS  
14 DISTRICT COURT JUDGE  
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EXHIBIT 5

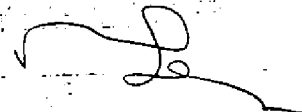
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1 CODE 1960  
2 Richard A. Gammick  
3 #001510  
4 P.O. Box 30083  
5 Reno, NV 89520-3083  
6 (775) 328-3200  
7 Attorney for Plaintiff

8  
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
10  
11 IN AND FOR THE COUNTY OF WASHOE.

12 \* \* \*

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

Case No. CR99-0636

16 DANNY LEE WILLIAMS,  
17 also known as  
18 DANNY HOYOPATUBBI,

Dept. No. 1

19 Defendant.

20 SENTENCING MEMORANDUM

21 COMES NOW, the State of Nevada by and through RICHARD  
22 A. GAMMICK, District Attorney of Washoe County and BRUCE C. HAHN,  
23 Deputy District Attorney and hereby submits a Memorandum of Law  
24 for the sentencing hearing of the defendant scheduled for  
25 July 28, 1999 at 9:00 am.

26 This Memorandum is based on the attached Points and  
Authorities, all pleadings and papers on file herein and any

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///

///

1 testimony taken and documents admitted at a hearing on this  
2 matter.

3 DATED this 13 day of July, 1999.

4 RICHARD A. GAMMICK  
5 District Attorney  
6 Washoe County, Nevada

7  
8 By [Signature]  
9 BRUCE C. HAHN  
10 Deputy District Attorney  
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26 07126362

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

On March 15, 1999, the defendant was charged in Reno Justice Court with a single felony count of Felon in Possession of a Firearm, a violation of NRS 202.360 in RJC 97,684.<sup>1</sup> At Preliminary Hearing on March 29, 1999, the defendant waived his Hearing for a plea bargain and was arraigned in District Court on April 1, 1999.<sup>2</sup> At Arraignment, the court personally canvassed the defendant which included a review of the potential penalties of a habitual criminal adjudication and found that the defendant entered a guilty plea knowingly, voluntarily and intelligently. After the defendant's request for immediate sentencing was denied, a sentencing hearing was set for May 13, 1999.<sup>3</sup>

On April 28, 1999, an Amended Information was filed alleging the original felony count of Ex-Felon in Possession of a

<sup>1</sup>Two companion cases exist to the instant case. The defendant was also charged in Sparks Justice Court with Using and/or Being Under the Influence of a Controlled Substance, a felony, on February 17, 1999. A corresponding Information was filed on March 23, 1999 as CR99-0551. The defendant was also charged in Reno Justice Court with Assault with a Deadly Weapon, Discharging a Firearm at or into a House and Carrying a Concealed Weapon, all felonies, on March 15, 1999. A corresponding Information was filed on March 31, 1999 as CR99-0634.

<sup>2</sup>In CR99-0551, the defendant filed his Waiver of Preliminary Hearing on March 23, 1999 pursuant to a previous plea bargain. In CR99-0634, the defendant filed his Waiver of Preliminary Hearing on March 31, 1999 pursuant to plea bargain as CR99-0634 was consolidated for Preliminary Hearing with CR99-0636.

<sup>3</sup>The defendant likewise entered a guilty plea to the Information in CR99-0551 and a guilty plea to Count III in CR99-0634. These two cases were consolidated for sentencing on May 13 with CR99-0636.

Firearm and a separate count of Being a Habitual Criminal under NRS 207.010. On May 12, 1999, this Court continued the sentencing hearing to May 20, 1999 on motion of the defendant and by stipulation of the State. On May 19, 1999, the defendant through counsel filed a Motion to Withdraw Pleas of Guilty on the instant case and the two companion cases. On May 20, 1999, the State orally opposed the Motion to Withdraw and the matter was set for an Evidentiary Hearing for June 25, 1999. On May 24, 1999, the State filed a Second Amended Information alleging the original count and the Habitual Criminal Count.<sup>4</sup>

On June 25, 1999, testimony was taken from Ole Thienhaus, M.D. as proffered by the defense and the hearing was continued. On July 7, 1999, the defense offered testimony of Deborah Kononchuk, L.P.N. Following the testimony and argument, the court made a finding that based upon the evidence, the totality of the circumstances demonstrated that the defendant failed to meet his burden of proof to withdraw his guilty plea. Following this finding, the defendant was then arraigned on the Second Amended Information and sentencing was scheduled for July 28, 1999.

## II. ARGUMENT AND AUTHORITY

Our law requires that a separate count be filed when alleging and requesting an adjudication of Habitual Criminal

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<sup>4</sup>The only difference between the Amended Information and the Second Amended Information was that an additional felony conviction was pled and thereby giving notice of another felony the State intended to rely upon at sentencing.



1 status when an Information is filed. Accord, Howard v. State, 83  
2 Nev. 53, 56, 422 P.2d 548, 550 (1967).<sup>5</sup> NRS 207.010(2) states:

3 "It is within the discretion of the prosecuting  
4 attorney whether to include a count under this section  
5 in any information or file a notice of habitual  
6 criminality if an indictment is found. The trial judge  
may at his (sic) discretion, dismiss a count under this  
section which is included in any indictment or  
information."

7 After notice is filed, the court's task is to then conduct a  
8 hearing on the allegation of Habitual Criminal.<sup>6</sup> This hearing  
9 involves several concomitant components.

10 First, the court is to weigh the appropriate factors  
11 for and against the habitual criminal enhancement.<sup>7</sup> Clark v.  
12 State, 109 Nev. 426, 851 P.2d 426 (1993). The purpose behind  
13 habitual criminal status is to increase sanctions for the  
14

15 <sup>5</sup>See, McGervey v. State, 114 Nev. Adv. Op 56, at 5, 958 P.2d  
16 1203, 1207 (1998) where the defendant was charged with being a  
habitual criminal by Amended Information. See also, Parkerson v.  
17 State, 100 Nev. 222, 224, 678 P.2d 1155, 1156 (1984), where the  
court stated that the habitual criminal allegation "...is typically  
18 included in the charging document..." The purpose of such a  
pleading is to provide notice of the State's allegation, not to  
charge a crime, therefore, no right to jury trial on the allegation  
19 exists. Accord, Hollander v. Warden, Nev. State Prison, 86 Nev.  
369, 468 P.2d 990 (1970).

20  
21 <sup>6</sup>"One facing adjudication as a habitual criminal...is at the  
mercy of the court and is thus subject to the broadest kind of  
judicial discretion." Tanksley v. State, 113 Nev. 997, 1004, 946  
22 P.2d 148, 152 (1997), citing Clark v. State, 109 Nev. 426, 428, 851  
P.2d 426, 427 (1993). [Emphasis in original].

23  
24 <sup>7</sup>"NRS 207.010 makes no special allowance for non-violent  
crimes or for the remoteness of convictions; instead, these are  
considerations within the discretion of the district court."  
25 Tillema v. State, 112 Nev. 266, 271, 914 P.2d 605, 608 (1996),  
citing Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805  
26 (1992).

1 recidivist and to discourage repeat offenders. Odoms v. State,  
2 102 Nev. 27, 32, 714 P.2d 568, 571 (1986). If the court does not  
3 find that it would be "just and proper" for the application of  
4 the habitual criminal status, it may dismiss the count. Clark,  
5 supra, Nev. at 428. The court has the discretion to dismiss the  
6 count "where an adjudication of habitual criminality would not  
7 serve the purposes of the status or interests of justice."  
8 Sessions v. State, 106 Nev. 186, 789 P.2d 1242 (1990) citing  
9 French v. State, 98 Nev. 235, 237, 645 P.2d 440, 441 (1982).

10 Second, the court must be satisfied beyond a reasonable  
11 doubt of the identity of the person and conviction of prior  
12 felonies as proved by the State. Howard, supra. A certified  
13 copy of a prior conviction is prima facie evidence for a prior  
14 felony alleged in the notice. Id., Nev. at 57.

15 Third, the court should examine the proof of each of  
16 the prior felony convictions pled that support the habitual  
17 criminal allegation for constitutional muster.<sup>8</sup> McAnulty v.  
18 State, 108 Nev. 179, 181, 826 P.2d 567, 569 (1992); Crutcher v.  
19 District Court, 111 Nev. 1286, 903 P.2d 823 (1995). Namely,  
20 "...there must be an affirmative showing that the defendant was  
21 represented by counsel, or knowingly waived that right in the  
22

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23 <sup>8</sup>The court can consider a defendant's stipulation that he was  
24 convicted of prior felonies pled by the State as going to overall  
25 proof of identity and the fact of conviction, as the defendant  
26 stipulated here in the hearing of July 7, 1999. However, the court  
must nonetheless examine the documentation of prior felony  
convictions for their constitutional validity; similar to the  
scrutiny protocol for documents offered to enhance a DUI penalty.

1 prior felony proceedings." Burns v. State, 88 Nev. 215, 220, 495  
2 P.2d 602, 605, (1972), citing Hamlet v. State, 85 Nev. 385, 387,  
3 455 P.2d 915, 916 (1969).

4 If the court makes a finding that it would be just and  
5 proper for the defendant to be adjudicated as a habitual  
6 criminal; and that the State has established identity; and that  
7 the statutory number of prior felonies have been noticed, proved  
8 by the State and are constitutionally valid, the court then  
9 invokes the recidivist statute. The court then has the option of  
10 applying either the "major habitual criminal statute" or the  
11 "little habitual criminal statute" if the circumstances so  
12 warrant. Staley v. State, 106 Nev. 75, 78, 787 P.2d 396, 398  
13 (1990). Thereafter, the appropriate recidivist sentence is  
14 imposed in lieu of the otherwise appropriate term by the ordinary  
15 statutory sentencing scheme.<sup>9</sup> Staudt v. State, 112 Nev. 1, 7, 908  
16 P.2d 1373, 1377 (1996), citing Cohen v. State, 97 Nev. 166, 625  
17 P.2d 1170 (1981); Lisby v. State, 82 Nev. 183, 414 P.2d 592  
18 (1966).

### 19 III. CONCLUSION

20 Here, the State filed formal notice of its intent to  
21 seek a Habitual Criminal adjudication in the Amended Information  
22 as early as April 28, 1999. By way of Second Amended  
23 Information, the State stands prepared to offer proof of four

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24  
25 <sup>9</sup>Should the court so adjudicate the defendant and sentence him  
26 in the instant case under this section, the court will then be  
called upon to sentence the defendant to the ordinary statutory  
sentencing scheme in the two companion cases.

1 felony convictions that occurred prior to the instant offense and  
2 the companion cases. The State contends that the facts and  
3 circumstances of the instant offense, the defendant's prior  
4 criminal record and the nature of the prior felony convictions  
5 pled make an adjudication of Habitual Criminal appropriate.

6 As such, the State requests that this court conduct an  
7 evidentiary hearing on this matter to include documentation and  
8 testimony offered by the State. Following the presentation of  
9 all evidence, the State will request that this court make  
10 findings on the record consistent with the three components  
11 above. Further, that this court thereafter sentence him to life  
12 imprisonment with the possibility of parole under  
13 207.010(1)(b)(2), consecutive to all other terms imposed.

14 Dated this 13 day of July, 1999.

15 RICHARD A. GAMMICK  
16 District Attorney  
17 Washoe County, Nevada

18  
19 By [Signature]  
20 BRUCE C. HAHN  
21 Deputy District Attorney  
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EXHIBIT 6

EXHIBIT  
SIX

EXHIBIT 6

1 No. CR97-1110

2 Sept. No. 1

FILED

12/30/97  
JUD. BAILEY, Clerk

By *[Signature]*  
Deputy Clerk

3  
4 IN THE SECOND JUDICIAL DISTRICT COURT  
5 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE  
6  
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8

9 STATE OF NEVADA,

Reporter: B. Van Auken

10 Plaintiff,

11 vs.

J U D G M E N T

12 HOWARD LEE WHITE,

13 Defendant.  
14  
15

16 No sufficient cause being shown by Defendant as to why  
17 judgment should not be pronounced against him, the Court rendered  
18 judgment as follows:

19 That Howard Lee White having been found guilty by a jury  
20 verdict of the crime of Battery Causing Substantial Bodily Harm, a  
21 violation of NRS 200.481, a felony, as charged in Count II of the  
22 Information; Burglary, a violation of NRS 205.060 and NRS 193.165, a  
23 felony, as charged in Count III of the Information and Attempted  
24 Robbery With The Use Of A Deadly Weapon, a violation of NRS 193.330,  
25 being an attempt to violate NRS 200.380 as charged in Count IV of the  
26 Information and the Court having adjudged the Defendant to be an  
27 habitual criminal pursuant to NRS 207.010 as charged in the Amended  
28 Information, the Court hereby sentences the Defendant to the term of

60

Exhibit 1

1  
2 Life Without The Possibility Of Parole in the Nevada State Prison, to  
3 run consecutively to the sentence imposed in criminal case CR77128 and  
4 by payment of restitution in the amount of One Thousand Eight Hundred  
5 Seventy-Eight Dollars and Sixty-Seven Cents (\$1,878.67).

6 It is further Ordered that the Defendant shall pay the  
7 Twenty-five Dollar (\$25.00) administrative assessment fee.

8 The Defendant is given credit for zero (0) days time served.

9 Dated this 30th day of December, 1997.

10  
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12 DISTRICT JUDGE  
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FILED

8-25-99  
AMY HARVEY, Clerk

By T. Kervan  
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

Case No. CR99-0636

vs.

Dept. No. 1

DANNY LEE WILLIAMS,

Defendant.

JUDGMENT

No sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

The Defendant, Danny Lee Williams, is adjudicated a habitual criminal, pursuant to NRS 207.010 (1) (b) (2), as charged in Count II of the Second Amended Information upon the determination of his guilt for the crime of Being an Ex-Felon in Possession of a Firearm, a violation of NRS 202.360, a felony, as charged in the Information. The Defendant is punished by imprisonment in the Nevada State Prison for the term of Life With the Possibility of Parole, eligibility of parole is to commence after a period of ten (10) years has been served. Said sentence is to run consecutively to the sentences imposed in case CR99-0551 and CR99-0634. The Defendant is given credit for zero (0) days time served. It is further ordered that the Defendant pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee.

Dated this 25th day of August, 1999.

Janet G. Berr  
DISTRICT JUDGE



CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCF Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein  
and that on this 9th day of August, 2022, I mailed a true and correct copy of this  
foregoing Motion to Correct Illegal Sentence to the following:

District Attorney's  
Office 200 Lewis Ave  
Las Vegas NV 89155

Clerk of the Court  
200 Lewis Ave  
Las Vegas NV 89155

Warden, Melvin Johnson  
High Desert State Prison  
P.O. Box 650  
Indian Springs NV 89070

Nevada Attorney General  
100 Carson City  
Carson City NV 89001

BY: 

Caesar Sanchez  
P.O. Box 650  
Indian Springs NV 89070  
Defendant/Prop.

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, Motion to correct

An Illegal Sentence  
(Title of Document)  
Filed in case number C-16-319580-V

☒ Document does not contain the social security number of any person

Or

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

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: August 9, 2012

[Signature]  
(Signature)

Cesar Valenciano 94307  
(Print Name)

AN/A  
(Attorney for)

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1358 - 1370  
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1 **OPPS**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **KAREN MISHLER**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #013730**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**  
11 **Plaintiff,**

12 **-vs-**

13 **CEASAR SANCHAZ VALENCIA,**  
14 **#1588390**

**CASE NO: C-16-315580-1**

**DEPT NO: I**

15 **Defendant.**

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CORRECT AN**  
17 **ILLEGAL SENTENCE, MOTION TO APPOINT COUNSEL AND**  
18 **MOTION TO REQUEST AN EVIDENTIARY HEARING**

19 **DATE OF HEARING: SEPTEMBER 15, 2022**  
20 **TIME OF HEARING: 9:00 AM**

21 **COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County**  
22 **District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby**  
23 **submits the attached Points and Authorities in Opposition to Defendant's Motion for Petition**  
24 **to Correct an Illegal Sentence.**

25 **This Opposition is made and based upon all the papers and pleadings on file herein, the**  
26 **attached points and authorities in support hereof, and oral argument at the time of hearing, if**  
27 **deemed necessary by this Honorable Court.**

28 **//**

**//**

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 9, 2016, the State filed an Information charging Defendant Ceasar Sanchaz  
4 Valencia (hereinafter "Defendant") with one count of Assault on a Protected Person With Use  
5 of a Deadly Weapon, one count of Ownership or Possession of Firearm by Prohibited Person,  
6 one count of Trafficking in Controlled Substance, and two counts of Possession of Controlled  
7 Substance. On June 10, 2016, Defendant was arraigned on the Information, at which time he  
8 entered a plea of not guilty and invoked his right to a speedy trial.

9 On November 27, 2017, the matter proceeded to trial. On December 1, 2017, the jury  
10 rendered its verdict of guilty as to all counts. On January 25, 2018, Defendant was sentenced  
11 to the Nevada Department of Corrections, pursuant to the small habitual criminal statute, as  
12 follows: Count 1 – a minimum of 84 months and a maximum of 240 months; Count 2 – a  
13 minimum of 24 months and a maximum of 72 months, concurrent to Count 1; Count 3 – a  
14 minimum of 12 months and a maximum of 48 months, concurrent with Count 2; Count 4 – a  
15 minimum of 12 months and a maximum of 48 months, concurrent with Count 3; Count 5 – a  
16 minimum of 24 months and a maximum of 72 months, concurrent to Count 4. Defendant's  
17 total aggregate sentence was a minimum of 108 months and a maximum of 312 months.  
18 Defendant received 615 days credit for time served. The Judgment of Conviction was filed on  
19 February 6, 2018.

20 On March 1, 2018, Defendant filed a Notice of Appeal. The Nevada Supreme Court  
21 affirmed Defendant's Judgment of Conviction, and remittitur issued on May 7, 2019.

22 On May 28, 2020,<sup>1</sup> Defendant filed the instant Petition for Writ of Habeas Corpus (Post-  
23 Conviction) (hereinafter "Petition"). On July 28, 2020, the Court denied the Petition. The  
24 Findings of Fact, Conclusions of Law were filed on August 7, 2020. On appeal, the Nevada  
25 Supreme Court reversed the denial of the Petition, finding that the Petition was timely filed.  
26 The Nevada Supreme Court remanded the matter back to this Court, with instructions to  
27 consider the Petition's claims on their merits. On August 19, 2021, this Court held a hearing  
28

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<sup>1</sup>The Petition reflects that though it was filed on May 28, 2020, it was received by the clerk of the court on May 4, 2020.

1 on the merits of the Petition, and on September 9, 2021, this Court issued a minute order  
2 denying the Petition. On August 25, 2022, Defendant filed the instant Motion to Correct an  
3 Illegal Sentence. The State's Opposition now follows.

#### 4 STATEMENT OF FACTS

5 On May 19, 2016, Las Vegas Metropolitan Police ("LVMPD") Officers Houston and  
6 Jacobitz attempted to conduct a traffic stop on Defendant after they observed him operating a  
7 moped at a high rate of speed and failing to stop at a stop sign. Officer Jacobitz activated the  
8 patrol car's lights and sirens, and followed Defendant until he appeared to stop and got off the  
9 moped. The officers exited their patrol car and were approximately five to eight feet away  
10 from Defendant. Defendant turned to face the officers, but then dropped the moped and ran  
11 away from the officers.

12 The officers pursued Defendant on foot. Officer Jacobitz observed a firearm in  
13 Defendant's right hand, and yelled "gun" to alert Officer Houston of the presence of a firearm.  
14 Defendant raised the firearm and pointed it at Officer Jacobitz, however, Defendant's elbow  
15 hit a pole which caused the gun to fall to the ground.

16 Officer Jacobitz remained with the firearm while Officer Houston continued chasing  
17 Defendant. While waiting with the firearm, Officer Jacobitz saw two men (unrelated to this  
18 case) attempt to steal the moped that Defendant had abandoned. Having to react quickly to this  
19 attempt theft, Officer Jacobitz retrieved the firearm without gloves so that the firearm would  
20 not be left unattended while he addressed the moped theft. Officer Jacobitz observed that the  
21 firearm was loaded and contained six rounds. Although Officer Houston continued the foot  
22 chase, ultimately Defendant was able to flee the scene.

23 On May 21, 2016, officers arrested Defendant during a felony vehicle stop after  
24 conducting surveillance on Defendant. During a search of his person incident to arrest, officers  
25 located 11.60 grams of heroin, 3.1 grams of methamphetamine, 2.400 grams of cocaine, 2.67  
26 grams of methamphetamine, and \$946 in US Currency.

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**ARGUMENT**

I. **DEFENDANT CANNOT DEMONSTRATE THAT HIS SENTENCE IS ILLEGAL**

A sentencing judge retains the power to reconsider a sentence only in certain limited situations. Under the provisions of NRS 176.555, the court may at any time correct an illegal sentence. In addition, NRS 176.565, provides "[c]lerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omissions may be corrected by the court at any time and after such notice, if any, as the court orders."

In general, a district court lacks jurisdiction to modify a sentence once the Defendant has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992). However, a district court has inherent authority to correct, vacate, or modify a sentence that violates due process where the Defendant can demonstrate the sentence is based on a materially untrue assumption or mistake of fact about the Defendant's criminal record that has worked to the *extreme detriment* of the Defendant. Edwards v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996) (emphasis added); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373.

Not every mistake or error during sentencing gives rise to a due process violation. State v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). AM N district court has jurisdiction to modify a Defendant's sentence "only if (1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant's extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process." Passanisi, 108 Nev. at 322-23, 831 P.2d at 1373-74.

Additionally, if substantial and material mistakes of fact were relied upon in rendering judgment, a judge may reconsider a sentence. State v. District Court, 100 Nev. 90, 677 P.2d 1044 (1984); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967). When the sentencing court "makes a mistake in rendering a judgment which works to the extreme detriment of the Defendant," the district court has jurisdiction to vacate or modify the suspect sentence or judgment. Id. at 95, citing Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

//

1 The United States Supreme Court has expressly held that where a Defendant is  
2 sentenced on the basis of materially untrue assumptions concerning his criminal record, “[the]  
3 result, whether caused by carelessness or design, is inconsistent with due process of law.” Id.  
4 at 96, *citing Townsend v. Burke*, 334 U.S. 736, 741, 68 S.Ct. 1252, 1255, 92 L.Ed. 1690  
5 (1948). A sentencing judge's misapprehension of a Defendant's criminal record may result in  
6 a violation of the Defendant's right to due process of law. Id. at 96. However, not every mistake  
7 or error which occurs during sentencing gives rise to a due process violation. The cases  
8 implicitly recognize this point; a due process violation arises only when the errors result in  
9 “materially untrue” assumptions about a Defendant's record. Id. at 96, *citing Townsend v.*  
10 Burke, 334 U.S. at 741, 68 S.Ct. at 1255.

11 “Motions to correct illegal sentences address only the facial legality of a sentence.” Id.  
12 Motions to correct illegal sentences evaluate whether the sentence imposed on the Defendant  
13 is “at variance with the controlling statute, or illegal in the sense that the court goes beyond  
14 its authority by acting without jurisdiction or imposing a sentence in excess of the statutory  
15 maximum provided.” Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).  
16 Other claims attacking the conviction or sentence must be raised by a timely filed direct appeal  
17 or a timely filed Petition for a Post-Conviction Writ of Habeas Corpus per NRS 34.720-34.830,  
18 or other appropriate motion. See id.

19 In the instant Motion, Defendant first alleges that his sentence is illegal because the  
20 State failed to follow the procedure and timeline outlined in NRS 207.016. Motion at 2.  
21 However, while the provision contained in NRS 207.016 (2) uses mandatory language in  
22 imposing a proper procedure and timeline, said imposition is applicable only where the State  
23 exercises discretionary separate filing of a count pursuant to NRS 207.010, 207.012, or  
24 207.014. NRS 207.016 (2). Given that the State did not pursue separate filing in the instant  
25 case, the procedure and timeline outlined in NRS 207. 012 (2) are inapplicable to the case at  
26 bar.

27 //

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1 Defendant next alleges that he had both a statutory and constitutional right to a hearing  
2 on the issue of previous convictions before being sentenced as a habitual criminal. Motion at  
3 3-6. However, Defendant's reliance on both the statute and case law cited is misplaced.

4 First, NRS 207.016 (3) holds that the court must determine the issue of a previous  
5 conviction charged only when the Defendant denies any previous conviction charged. An  
6 extensive search of the record of this case produced no evidence of any such denial. Given  
7 Defendant's failure to raise such a denial, no hearing on the issue of any previous conviction  
8 was required by NRS 207.016 (3).

9 Second, Defendant erroneously relies on Specht v. Patterson to advance his assertion  
10 that he was entitled to a hearing on the issue of previous convictions. Mot. at 7. Specht  
11 addressed a constitutional challenge of the invocation procedure for Colorado's Sex Offenders  
12 Act through the Defendant's writ of habeas corpus. Id. at 386 U.S. at 606, 87 S. Ct. at 1210.  
13 As Specht illustrates, the proper vehicle for raising a constitutional challenge to an existing  
14 statute is a writ of habeas corpus. Defendant may not raise such a challenge through his Motion.  
15 Moreover, Specht would not provide Defendant with any more support in a writ of habeas  
16 corpus, as the law in this case made "... one conviction the basis for commencing another  
17 proceeding under another Act", which is distinct from Defendant's case wherein "...the  
18 commission of a specified crime [is] the basis for sentencing." Id. at 386 U.S. at 608, 87 S. Ct.  
19 at 1211.

## 20 II. DEFENDANT IS NOT ENTITLED TO AN EVIDENTIARY HEARING

21 In the habeas context, the Nevada Supreme Court has held that if claims can be resolved  
22 without expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110  
23 Nev. 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002).  
24 A Defendant is entitled to an evidentiary hearing if his petition is supported by specific factual  
25 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled  
26 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove v. State, 100  
27 Nev. 498, 503, 686 P.2d 222, 225 (1984) (holding that "[a] Defendant seeking post-conviction  
28 relief is not entitled to an evidentiary hearing on factual allegations belied or repelled by the

1 record"). "A claim is 'belied' when it is contradicted or proven to be false by the record as it  
2 existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is  
3 improper to hold an evidentiary hearing simply to make a complete record. See State v. Eighth  
4 Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) ("The district court  
5 considered itself the 'equivalent of . . . the trial judge' and consequently wanted 'to make as  
6 complete a record as possible.' This is an incorrect basis for an evidentiary hearing.").

7 Here, Defendant requests an evidentiary hearing. Motion at 1. However, such request  
8 does not extend beyond the title of the instant motion. Defendant has not shown he is entitled  
9 to an evidentiary hearing. Contentions raised in Defendant's Motion are meritless. A  
10 Defendant is only entitled to an evidentiary hearing if his Motion is supported by specific  
11 factual allegations, which if true, would entitle him to relief unless the factual allegations are  
12 repelled by the record. Marshall v. State, 110 Nev. 1328, 1331, 885 P.2d 603, 605 (1994). "A  
13 Defendant seeking post-conviction relief is not entitled to an evidentiary hearing on factual  
14 allegations belied or repelled by the record." Hargrove v. State, 100 Nev. 498, 503, 686 P.2d  
15 222, 225 (1984); citing Grondin v. State, 97 Nev. 454, 634 P.2d 456 (1981). Thus, Defendant's  
16 request for an evidentiary hearing should be denied.

### 17 **III. DEFENDANT IS NOT ENTITLED TO THE APPOINTMENT OF** 18 **COUNSEL**

19  
20 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-  
21 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566  
22 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada  
23 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right  
24 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to  
25 counsel provision as being coextensive with the Sixth Amendment to the United States

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1 Constitution.” McKague specifically held that with the exception of NRS 34.820(1)(a)  
2 (entitling appointed counsel when Defendant is under a sentence of death), one does not have  
3 “any constitutional or statutory right to counsel at all” in post-conviction proceedings. Id. at  
4 164, 912 P.2d at 258.

5 Defendant requests this Court appoint him counsel. He has not demonstrated the  
6 appointment of counsel is warranted. He offers no support for this request other than a citation  
7 to NRS 34.750. This statute provides courts with discretion to appoint counsel to assist in the  
8 filing of a petition for postconviction relief, not a motion to correct illegal sentence. As stated  
9 above, Petitioner’s contention that his sentence is illegal is flatly incorrect. Petitioner’s request  
10 is suitable only for summary denial as he has failed to provide any specific facts to support his  
11 bare and naked request. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

12 **CONCLUSION**

13 Based on the foregoing, the State respectfully requests that Defendant’s Motion to  
14 Correct an Illegal Sentence, Appointment of Counsel and Request an Evidentiary Hearing be  
15 DENIED.

16 DATED this \_\_\_\_ day of September, 2022.

17 Respectfully submitted,

18 STEVEN B. WOLFSON  
19 Clark County District Attorney  
Nevada Bar #1565

20 BY Karen Mishler 12395 per  
21 KAREN MISHLER  
22 Chief Deputy District Attorney  
23 Nevada Bar #013730  
24  
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26  
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28 16F08334X/dh/l.2

Cesar Sanchez Valencia  
#9430  
Do box 650  
Sundown Springs  
Mo 64689  
Defendant/Plaintiff

FILED  
SEP 14 2022  
Clerk of Court

District Court  
Clark County Nevada

The STATE OF NEVADA

Plaintiff,

vs.

Case No. C-1631550-1

Dept. No.: \_\_\_\_\_

Docket No.: \_\_\_\_\_

Cesar Sanchez Valencia  
#9430

Defendant

### NOTICE OF MOTION

You will please take NOTICE that Cesar Sanchez Valencia has forwarded for filing the attached Motion for Order to show Cause and that this motion will come on for hearing before the above entitled Court on the day of \_\_\_\_\_ 2022 at the hour of \_\_\_\_\_ m. in Department of said Court. Please take notice;

Pursuant to E.J.C. Criminal Rule 32.0 motions Copies of an opposition should be supplied with:

- ① enough time to offer reply;
- ② Findings of Facts, conclusions of Law that supports this Court's reason find Grants or Denies, Defendant's motion rightfully submitted by Cesar Sanchez Valencia

RECEIVED  
SEP 06 2022  
CLERK OF THE COURT

1 Cesar Sanchez Valencia  
#94307  
2 DOB 06/16/50  
Indian Springs NV 89070  
3 Defendant/In pro se

FILED

SEP 14 2022

CLERK OF COURT

District Court  
CLARK COUNTY NEVADA

4 THE STATE OF NEVADA

5 Plaintiff,

6 vs.

Case No.: C-1631580-1

Dept. No.: 29

Docket No

7 Cesar Sanchez Valencia #94307

8 Defendant

October 6, 2022  
9:00 AM

10 MOTION FOR ORDER TO SHOW CAUSE

11 Comes Now Defendant Cesar Sanchez Valencia #94307  
12 in pro se and submits his Motion for Order to show  
13 Cause, moving this Court to order former counsel of  
14 record Marcus Kent Kozal Esq and Gregory  
15 E Cover Esq to show cause why they have not  
16 complied with the letter and spirit of NRS.  
17 7.055 and why this Court should not take  
18 remedial action to enforce the statute.

19 THIS Motion is made and based upon this Court's  
20 ORDER removing Marcus Kent Kozal Esq  
21 and Gregory E Cover Esq from the case NRS  
22 7.055, all papers, pleadings and documents  
23 on file her in and the following points and  
24 facts.

MEMORANDUM OF POINTS AND AUTHORITIES

On 10-22-19 Defendant instructed then Counsel of record to withdraw as Counsel of record and per NRS 7.055 Forward to him all papers, files materials and records which were in counsel's possession. See EXHIBIT A. Pursuant to a Motion to withdraw Mr Coyer Sept 3 2019 Motion denied but request for records granted Court ORDERED Mr Coyer to provide all records. On April 17 2019 Mr Coyer informed me about Direct Appeal denied and advised that I had 1 year to Deadline to pursue post conviction relief through a Petition for Writ of Habeas Corpus and that this Order concludes his legal representation See EXHIBIT B. On January 10 2020 Defendant could not file Motion for production of Documents Papers Pleadings and Tangible property of Defendant pleadings received by District court clerk are being forwarded to a Mr & Marcus Kent Kozal Esq. See EXHIBIT C. On 1-20-21 Defendant wrote letter to law offices of Mr. Kent Kozal Esq. instructing Mr Kozal that Court Ordered that Mr Kozal drop in case file from Mr Coyer and forward to me at the Prison I explain to Mr Kozal

MEMORANDUM OF POINTS AND AUTHORITIES

The Court hearing for this Order was on 2-4-20. I also explained to Mr Kozal that I have been trying to get my case file from Mr Coyer since March of 2019 that in the file there are several DISC'S that is part of my disorder to please obtain case file from Mr Coyer and forward to Defendant at the Prison See EXHIBIT D. On July 30 2020 Defendant received some copies of Documents from Mr Kozal it was not the case file See EXHIBIT E. On July 23 2020 Defendant wrote letter to Mr Kozal explaining to him about the mentioned Court Order Motion to Withdraw as Attorney of record was granted and Mr Kozal advised Court that he had not received files on closed cases from Mr Coyer when he took over Mr Coyer's cases February 4 2020 Court ordered Mr Kozal to obtain the file and send it to Defendant See EXHIBIT F. On August 11th 2020 Court denied Motion to hold Mr Coyer in contempt Denied but ordered Mr Coyer and Mr Kozal to send the file to Defendant at Indian Springs. Mr Kozal indicated he has

MEMORANDUM OF POINTS AND AUTHORITIES

communicated with Defendant and sent the  
Rule to Defendant two times prior which is  
not true although Mr Roze sent copies of  
some papers it was not the case file.  
ON Jan 5th 2017 Mr Cayer via Email  
requesting discovery is subsection 2  
Please provide any and all Videos related  
Mr Cayer told District Attorney that  
he was in possession of three body cam  
cam videos after trial I requested  
that Mr Cayer send me these DISC  
which I send to my case file and to  
include the CAD a ft audio and all  
the records which he has in his possession  
if Mr Roze would obtain case file  
he never send me none of the DISC which  
in response from District Attorney  
Rachel O'Halloran to Mr Cayer  
in subsection 5 new deputy to  
provide copy at the bottom of letter  
in addition to the above documents  
there is included Defendant's jail records  
Defendant's jail calls thru July 11 2016  
couldn't copy but will provide, in  
those records calls I having  
spoken to my attorney witness



MEMORANDUM OF POINTS AND AUTHORITIES

my spouse Edna Acaraz with those text records I could not prove that my phone calls with Edna and visitation Mr. Coyer didn't want to give any information about my case even though she told Mr. Coyer she would help me out because I was at home with her and those body cam footage shows were I was in my house Mr. Coyer has failed to provide the case file and he has concluded that on April 20th 2019 See EXHIBIT B. Copy of the Email Request from Mr. Coyer to District Attorney Rachel O'Halloran admitting having those body cam videos See EXHIBIT G. Copy of Motion to hold Gregory E. Coyer Attorney of Record in Contempt for failing to forward case file even after Court Order See EXHIBIT H. Mr. Kozal only forwarded enumerated documents but it did not or was not the case file from Mr. Coyer. On 10-22-19 Defendant wrote Counsel Mr. Coyer complaining that Counsel had not forwarded but not that only Appeal brief and trial transcripts those are not but some documents

1 but had not sent the entire file much less the  
2 originals of those files pursuant to the letter  
3 and spirit of NRS 7.055. See ~~EXHIBIT A~~ and  
4 ~~EXHIBIT D~~ and also ~~EXHIBIT F~~. DeLanda has  
5 Mr. Coover and Mr. Hoza/ very politely to send  
6 entire file to include the Compact Disc and  
7 the originals of his files. Specifically, identify  
8 the documents Mr. Coover and Mr. Hoza/ had  
9 completely failed to forward in any media  
10 Id. Counsel has not responded to defendant's  
11 reasonable request to send the entire case file  
12 and the originals thereof, as opposed to just  
13 copies. NRS 7.055 does not bespeak a  
14 discharged Attorney sending to former client  
15 xeroxed copies of his papers, documents, and pleadings.  
16 In reading the statute the words there more given  
17 their plain meaning. *Perkins v. State*, 117 Nev.  
18 34 P3d 519, 528-29 (2001) with entire subject  
19 matter and policy of the statute aiding in its  
20 interpretation devoid of absurd or unreasonable  
21 results. *Ellermedafo v. City of Reno*, 118 Nev.  
22 59 P3d 437, 439 (2002).  
23 In that the phrase "ownership of papers, documents  
24 and pleadings" contained within §(2)'s "papers, documents,  
25 pleadings" language in conjunction with the demand  
26 therefore and payment of the fee "therefore  
27 neither bespeak copies of those papers but the  
28 originals only to which attorney lien could be imposed.  
29 *Fitzgerald v. District Court*, 111 Nev. 338 890 P2d 798  
30 800-02 (1995).  
31 Counsel attempt to circumvent the demands of  
32 NRS 7.055 should be met with this court's  
33 findings of contempt or otherwise such remedial  
34 action unless counsel can demonstrate cause to  
35 this court why they have refused to comply

1 with the state via forwarding to defendant (1)  
2 all documents, papers, files etc, and (2) the  
3 original thereof pursuant to NRS 7,035.  
4 This Court has authority to take such remedial  
5 action via its inherent authority to do so, as well  
6 as per the legislative intent of NRS 7,035(2) that  
7 this Court enforce the Sheriff's mandates. Id.  
8 See also NRS 22030 Award v Wright  
9 106 Nev. 407, 794 P2d 713 (1990) Courts have  
10 the power to issue and order civil contempt proceedings  
11 Cf. Brown v Brown 101 Nev. 144 696 P2d 999  
12 1000 (1985) (courts have inherent power to enforce their  
13 own orders) This Court should therefore ORDER  
14 Counsel to show cause as to their failure  
15 to comply with this Court's ORDER withdrawing  
16 Counsel from NRS 7,035 and as to why this  
17 Court should not take action against Counsel  
18 to enforce same

19  
20  
21  
22  
23  
24 Dated this 24th day of August, 2022

25  
26 By: Angela Sanchez Vaca  
27 #17430  
28 Joseph L. Lora  
Lora on Springs NV  
89070

EXHIBIT  
A

10-22-19

To Mr Cayer

Greetings I'm hoping this letter finds you well. I'm writing to request all records of my case to include all compact Disc. I have requested them from you in the past you denied my request but now there has been a court order for you to provide me with all records. Also I would like to see if you could file a motion for Alternate counsel to help me with my post conviction process. Some of the ground for relief would be ineffective assistance. I will try to reach you by phone but there have been some locked down for stabbing and fights here at the prison so it's not easy to get on the phone. I know it could be possible for you to request for me to get Alternate counsel if possible soon because my time is running out to file my Post-conviction with the courts if you could help me with this I would highly appreciate it. Thank you please send me copies of my records to include the compact Disc. if you check court matters for Sept 3 2019 motion to withdraw Attorney Denied so I'm hoping the court will highly consider Alternate counsel for my case to file all grounds

for relief. When you send me copy's of  
the DISCS make sure you put my case  
number on them and my Id number.  
if for some reason you can't file for Alternate  
counsel would you please inform me soon as possible  
Thank you once again, respectfully

*Cesar*

Cesar Valencetti #94307  
PO box 1989  
Ely NV 89301

EXHIBIT  
B

Gregory E. Coyer, Esq.  
Attorney At Law

600 S. Tonopah Dr., Suite 220  
Las Vegas, Nevada 89106

Tel: 702.802.3088

Fax: 702.802.3157

Email: [gcoyer@coyerlaw.com](mailto:gcoyer@coyerlaw.com)

[www.coyerlaw.com](http://www.coyerlaw.com)

April 17, 2019

**VIA REGULAR U.S. MAIL TO:**

Cesar Valencia, NDOC #94307  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301

**Re: Cesar Sanchez Valencia v. The State of Nevada (Direct Appeal);  
Nevada Supreme Court Docket No. 75282**

Dear Cesar:

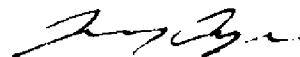
I hope this letter finds you well. I write you today to provide you with an update on the status of your appeal. It is with much disappointment that I must notify you that your conviction was affirmed by the Nevada Supreme Court, meaning that our appeal was denied. I am also providing you the enclosed copy of the Order of Affirmance.

The court will issue a remittitur within the next couple of weeks. Please be advised that your deadline to pursue post-conviction relief through a Petition for Writ of Habeas Corpus is one (1) year from the date the remittitur is issued.

This officially concludes my legal representation of you. I wish you the best of luck in your future endeavors.

Sincerely yours,

COYER LAW OFFICE



Gregory E. Coyer, Esq.

/GEC  
Enclosure (Order of Affirmance)  
cc: file

12  
1391



EXHIBIT  
C

13



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

January 10, 2020

**Attorney:** Marcus Kent Kozal  
Law Offices of Paul J Adras  
c/o Marcus Kent Kozal  
4532 W Charleston Blvd  
Las Vegas NV 89102

**Case Number:** C-16-315580-1  
**Department:** Department 29

**Defendant:** Ceasar Sanchaz Valencia

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

**Pleadings: Motion For Production Of Documents, Papers, Pleadings And Tangible  
Property Of Defendant**

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court

14

EXHIBIT  
D

To Law Offices of M. Kent Kozal, ESQ  
601 South Seventh St  
Las Vegas NV 89101

1-20-21

Hope this letter finds you well. Mr Kozal I'm writing  
because after I wrote to you my first letter  
the District Court ordered that you forward my  
case file after you obtained it from Mr Cayer  
you did not send me my entire case file  
I would highly appreciate if you would be kind  
enough to obtain the file from Mr Cayer and  
forward it to me I'm requesting this after in  
March I filed motion for Mr Cayer failing to  
to send me my file there are several  
DISCS that is part of my full D, Kozal  
I'm requesting these DISC for my case I will  
wait for your response the Judge has ordered  
for me to receive all records so I could not  
stress enough this issue please obtain the  
case file from Mr Cayer and send it to me  
I highly appreciate a quick response at your  
convenience Thank you for your time and  
consideration

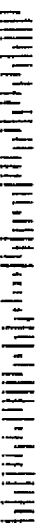
case # C-16-35580-1

respectfully  
Cesar Valente #7430  
Box 650  
Indian Springs NV  
89100

16395

EXHIBIT  
E

Law Offices of M. Kent Kozal, Esq.  
601 South Seventh Street  
Las Vegas, Nevada 89101



Cesar Sanchez Valencia #94307  
High Desert State Prison  
22010 Cold Creek Rd.  
Indian Springs, Nevada 89070

UB34

17

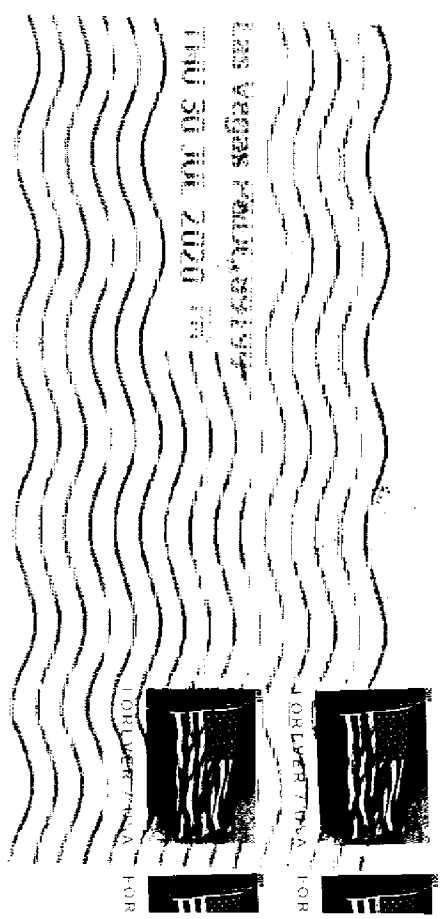


EXHIBIT  
F

(19)

To Marcus Kent Kozal

7-23-20

Law offices of Paul J Adras

4532 W Charleston Blvd

Las Vegas NV 89102

my name is Cesar Valencia hope this letter finds you well. I'm writing regarding my case file. On Jan 10th 2020 clerk of the court forward my motion for production of Documents papers and tangible property of defendant on March 3rd this motion was granted but on Feb 4th 2022 motion to withdraw was granted and you Mr Kozal advised the court that you had not received files on closed cases from Mr Coyle when you took over the case. Upon granting this motion to withdraw Mr Kozal the court made an order for you to obtain the file and send it to me I have called 1000 times trying to reach you on phone 702-410-9209, never could reach you but I would like a response to my request I need my case file I have tried to reach to Mr Coyle and he refuses my mail or letters please obtain my case file from Mr Coyle and forward it to me you would need to put my case number and inmate ID on the disc this file contains several disc. I will highly appreciate a quick response if you send me a good phone number I can speak to you. I don't want to submit a motion for contempt of court but I will if I don't have my file. I'm in need of it for my post conviction Habeas Corpus. I understand that there have been strict restrictions.



because of covid 19 but I need the file and  
it's been since Sept that Mr Coyen need to provide  
it and has failed in Feb 4th you were present  
in court when Judge made the order for you to  
obtain that file from Mr Coyen you have failed  
on March 3rd motion again was granted for production  
of documents and tangible Property again you have failed  
if I don't get a response soon I will have no  
choice but to file a complaint with the state  
bar if need my file and a response Thank  
you for your time and consideration

case # C-16-315580-1  
Depl 29

respectfully  
Cesar Valencio #74307  
House 650  
Indian Springs NV 89707

EXHIBIT  
6

Gregory E. Coyer, Esq.  
Attorney At Law

600 S. Tonopah Dr., Suite 220  
Las Vegas, Nevada 89101

Tel: 702.302.3088  
Fax: 702.302.3157  
Email: gcoyer@coverlaw.com  
www.coverlaw.com

January 5, 2017

**VIA ELECTRONIC MAIL TO: rachel.ohalloran@clarkcountynvda.com**

Clark County District Attorney's Office  
Deputy District Attorney Rachel O'Halloran  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

Re: State of Nevada v. Cesar Valencia; Case No. C-16-315580-1

Dear Rachel:

Please be advised that the above-named Defendant hereby formally requests discovery pursuant to NRS 174.234, 174.235, *et seq.* as well as for all discovery materials obligated to be produced by the State pursuant to Brady v. Maryland, 373 U.S. 83 (prosecutor has obligation to produce evidence favorable to the accused where the evidence is material to guilt or punishment); Kyles v. Whitley, 514 U.S. 419 (prosecutor has a duty to ensure that favorable evidence is brought to the prosecutor's attention regardless of any failures by the police); and Giglio v. United States, 405 U.S. 150 (prosecutor has a Brady obligation to produce evidence affecting the credibility of its witnesses).

I have listed below some specific requests in addition to the general requirements of the NRS and the authority in *Brady* and its progeny.

- (1) Please provide any and all statements and/or reports made by any law enforcement officer related to this case and/or event number 160519-3387 (currently, we are only in possession of Officer Bryant's report).
- (2) Please provide any and all video related to this case and/or event number 160519-3387 (currently, we are in possession of three body-cam videos; however, my client firmly believes that there is dash-cam video available).
- (3) Please provide any and all photographs related to this case and/or event number 160519-3387.
- (4) Please provide any and all expert witness reports and the substance of their expected testimony for each and all of the expert witnesses you have noticed in this case.

1402

- (5) Please provide any and all CAD and/or audio dispatch logs related to this case and/or event number 160519-3387.
- (6) Please provide any and all impound sheets and/or evidence impound reports and/or property reports related to this case and/or event number 160519-3387.

For all of the above requests, if you object to the production of any of these specifically requested items, please state the basis for your objection(s). This will help expedite the resolution of any discovery issues and hopefully reduce or eliminate the need for additional time consuming litigation, such as the filing of a motion to compel discovery.

Should you have any questions or concerns regarding this matter, please do not hesitate to call or email at your convenience.

Sincerely yours,

COYER LAW OFFICE



Gregory E. Coyer, Esq.

/GEC

cc: file/client



## State v. Ceasar Valencia; discovery requests

Rachel O'Halloran <Rachel.OHalloran@clarkccountyda.com>  
To: Gregory Coyer <gcoyer@coyerlaw.com>

Thu, Jan 5, 2017 at 5:43 PM

Greg,

Please see below for my responses to the requests you sent this afternoon via the attached letter. I have made a copy of all the discovery in my file (to include the items described below) and will place it in your in-box on the first floor of the RJC when I leave the office today. As you know I was switched to a different track so this case is going to be reassigned to a different deputy.

1. In addition to Officer Bryant's reports, there is a CSI Report authored by O. Klosterman; a Money Accounting Report, three ODV checklists; two Property Reports (one impounding the firearm and another for the drugs), a Vehicle Release Form and Impound Report for the moped, a Declaration of Arrest for Eric Gilbert and Anibel Rivera (regarding the moped incident); and a SW for the mustang and Defendant's DNA
  - a. I do not believe any other written statements/reports of any officers exist
2. There is no additional video. LVMPD does not utilize dash cameras on their vehicles.
3. They are saved to a disk and I will place them in your inbox.
4. There are three forensic reports: Latent Print examination of the firearm; DNA of the firearm; chemical testing of the drugs; they are included in the discovery I placed in your inbox. The substance of any potential testimony is included in the reports
5. I have provided the CAD for 160519-3387 and 160520-4272 (the car stop). There are no calls to dispatch but I do have radio traffic. However, I am having difficulty with my computer and can't make a copy at this time. I will place a note in the file for the new deputy to make you a copy. Please follow up with him/her.
6. Please see response to request 1 for a description of what exists. All of the reports are included in the discovery I provided.

In addition to the above documents, I have included Defendant's jail records. I have Defendant's jail calls through July 11, 2016 but can't copy them at this time. We will provide those to you as well.

25  
1404

Sincerely,

Rachel O'Halloran

Deputy District Attorney

Clark County District Attorney's Office


Phone: (702) 671-4729

E-mail: Rachel.OHalloran@clarkcountysda.com



**From:** Gregory Coyer [mailto:gcoyer@coyerlaw.com]  
**Sent:** Thursday, January 05, 2017 4:22 PM  
**To:** Rachel O'Halloran <Rachel.OHalloran@clarkcountysda.com>  
**Subject:** State v. Ceasar Valencia; discovery requests

[Quoted text hidden]

 2017.01.05\_LTR\_ValenciaDiscoveryRequest.pdf  
152K

26

1405

EXHIBIT  
H



Cesar Sanchez Valencia  
#94307  
PO Box 650  
Indian Springs NV 89407  
Defendant proper person

FILED

JUL 13 2020

*John J. Williams*  
CLERK OF COURT

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

Cesar Sanchez Valencia #94307  
PETITIONER

Case No. C-16-315580-1

Dept. No. 29

Docket No.

August 4, 2020  
8:30 AM

THE STATE OF NEVADA  
Respondent

MOTION TO HOLD GREGORY E LOVER, ATTORNEY OF RECORD IN  
CONTEMPT FOR FAILING TO FORWARD A COPY OF CASE FILE

COMES NOW, Petitioner, Cesar Sanchez Valencia #94307, proper, and respectfully moves this Honorable Court for its Order holding GREGORY E LOVER, ESQ as the Attorney of Record in the above entitled matter in contempt of Court for failing to forward entire case file, to include and not limited to all DISCS and photographs. Again to forward entire case file.

This Motion is made and based upon Nev. Rev. Stat 2.055 and Nev. Sup. Ct Rules 166(4), 173, 176, and 203 and Rules 11 and 20 of the rules of the District Courts of the state of Nevada.

28

RECEIVED  
JUN 29 2020  
CLERK OF THE COURT



MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner Ceasar Sanchez Valencia #94307 file a pro-per Motion's for withdrawal of Attorney and Request of Records and also Motion for Production of documents, Papers, Pleadings AND Tangible property of Petitioner Ceasar Sanchez Valencia. pro per motion to proceed in Forma pauperis. On September 3rd 2019 and in March 3rd 2020 this Court heard the motions and granted them both. On October -22, 2019 wrote Gregory E Coyer ESQ a letter and sent him a copy of criminal Court minutes and the order granting Petitioner's Motion for Withdrawal of Attorney of Record in Feb and transfer of Records in March. See Exhibit A attached. As of the date of this Motion Gregory E Coyer ESQ has not Responded Petitioner Ceasar Sanchez Valencia has not received any response from Mr Coyer on the transfer of entire case file that was requested.

ARGUMENT

Nevada courts have the inherent power and jurisdiction to impose sanctions on Attorneys even in criminal cases, See Supreme court rules, Rule 39, and also Young v Ninth Federal District Court 107 Nev. 652, 818 P2d 844 (1991); and Greene v State 113 Nev. 527 at 110, 931 P2d 54 (1997).

1 Caesar Sanchez Valencia's Direct Appeal was  
2 decided on April 12 2019 Mr Coyer did not  
3 send the file to the Petitioner Caesar Valencia  
4 upon the Supreme Court's decision to deny the  
5 appeal. Nevada Revised Statute chapter 34 sets  
6 forth the procedures to be utilized by a person  
7 convicted of a crime to collaterally attack their  
8 conviction. NRS 34.726 requires that the Petition  
9 for Writ of Habeas Corpus (Post conviction) be filed  
10 within one (1) year of the date of the remitter  
11 issuing in the case Mr Coyer has not forward  
12 the file to Caesar Valencia Petitioner when his  
13 representation was complete upon denial of  
14 the Direct Appeal and even after this Court  
15 ordered him to forward the file to the Petitioner  
16 Caesar Sanchez Valencia #94307.  
17 SCR 154(1) requires an Attorney to keep a client  
18 reasonably informed about the status of a matter and  
19 to promptly comply with a reasonable request for  
20 information. As shown by the Court's order of  
21 Sept 3rd 2019 Feb and March 2020 Mr Coyer  
22 has not promptly responded to Caesar Valencia Petitioner's  
23 request for his case file so that the Petitioner  
24 can competently challenge his conviction in the  
25 Courts. The Nevada Supreme Court has adopted  
26 the Standard set forth in Strickland v Washington  
27 104 S Ct 2052, 4166 US 668 (1984).

1 for judging the reasonable effective assistance of  
2 counsel. See Warden v Lyons 683 P2d 504, 100 Nev  
3 430 (1984); Dawson v State 825 P2d 593 105 Nev 112  
4 (1992). Strickland requires that a convicted defendant  
5 making a claim of ineffective assistance of counsel must  
6 identify the acts or omissions of counsel that  
7 are alleged not to have been the result of professional  
8 judgment. id. 104 S.Ct. at 2066 n. 12.  
9 Without the requested Rule Ceasar Sanchez Valenzuela  
10 Petitioner cannot identify all of acts and omissions  
11 of counsel. He is in essence in a boat without a paddle  
12 and no way to steer a course. Without the Rule  
13 Ceasar Sanchez Valenzuela can do no more than make  
14 bare allegations.  
15 S.R. 11(d)(4) requires that upon termination of representation,  
16 the Attorney shall take reasonable steps to protect a  
17 client's interest, including surrender papers and  
18 property to which the client is entitled. See  
19 In re Kaufman, 93 Nev. 452, 567 P2d 957  
20 (1977) and In re Frankovich, 94 Nev 104 at 109  
21 575 P2d 931 (1978). GREGORY FLOYER  
22 ESQ clearly has failed in his obligations to the  
23 Petitioner Ceasar Sanchez Valenzuela in not forwarding his  
24 Rule to him upon the termination of representation.  
25 He can not claim that he is unaware of the  
26 Rule  
27 Rule

1 Supreme Court Rules which define and determine  
2 the conduct of all attorneys in the state of Nevada.  
3 He was notified of the Court's order by the District  
4 Attorney's Office and he received a letter with  
5 a copy of the Court's Order from the Petitioner  
6 Cesar Valencia. He has completely ignored and  
7 refused to comply with the Supreme Court Rules and  
8 Order of this Court. For those reasons Mr Cesar  
9 Sanchez Valencia Request that Mr Coyer should be  
10 censured by this Court imposing a fine/imprisonment  
11 of 48 hours and made to comply with this Court's  
12 Order

### 13 CONCLUSION

14 WHEREFORE all of the above stated reasons Cesar  
15 Valencia request this Honorable Court find Mr  
16 Coyer in contempt and impose a sanction that will  
17 insure future compliance with this Court's orders  
18 and make him comply with present orders

19 DATED THIS 18th day of June 2020  
20

21  
22 respectfully submitted  
23 Cesar Sanchez Valencia  
24 #94357  
25 Pobox 650  
26 Indian Springs NV 89107  
27

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5 (b), I hereby certify that I am the Petitioner/Defendant named herein  
and that on this 18th day of JUNE, 2020, I mailed a true and correct copy of this  
foregoing MOTION TO HOLD GREGORY E LOYER to the following:

IN Contempt Failure to FORWARD  
CASE file

Clerk of the Court  
200 Lewis Ave 20th Fl  
Las Vegas NV 89155-1160

Steven B Wolfson  
District Attorney  
200 Lewis Ave  
Las Vegas NV 89155  
-1160

Gregory E Loyce - ESQ  
600 S Tonopah Dr suite 220  
Las Vegas NV 89106

BY: Cecilia L. Lench  
#94305  
PO Box 650  
Indian Springs NV  
89707

AFFIRMATION

Pursuant to NRS 239b.030

The undersigned does hereby affirm that the preceding document, MOTION TO HOLD  
GREGORY E GOYER ESQ IN CONTEMPT FAILING TO FORWARD  
CASE FILE (Title of Document)  
Filed in case number: C-16-315580-1

☒ Document does not contain the social security number of any person

Or

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

☐ A Specific state or federal law, to wit

Or

☐ For the administration of a public program

Or

☐ For an application for a federal or state grant

Or

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230, and NRS 125b.055)

DATE: 18th day of June 2020

Cm  
(Signature)

Cesar Valencier  
(Print Name)

\_\_\_\_\_  
(Attorney for)



CERTIFICATE OF SERVICE BY MAIL

Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner/Defendant named herein and that on this 24th day of Nov 2000 I mailed a true a correct copy of the foregoing document to the following: Motion For Order to Show Cause

clerk of the court  
200 Lewis Ave 3rd Fl  
Las Vegas NV 89101-1100

District Attorney  
200 Lewis Ave  
Las Vegas NV 89101-1100

Gregory E. Capr ESQ  
600 Tonopah Dr Suite 220  
Las Vegas NV 89106

Cesar Holman #94307

Law Offices of Mr. Kent Rozal ESQ  
601 Seventh Street  
Las Vegas NV 89101



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

The undersigned does hereby affirm that the preceding document, Motion  
For Order to show Cause

(Title of Document)

filed in case number C-16-35580-1



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: August 24th 2022

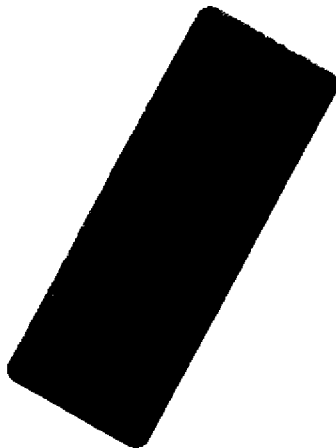
(Signature)

(Print Name)

(Attorney for)

FROM  
Casuar Sanchez Mendez #94365  
Pobux 65E  
Tulalip Springs WA 99072  
Please Return Rule Stamped Copy

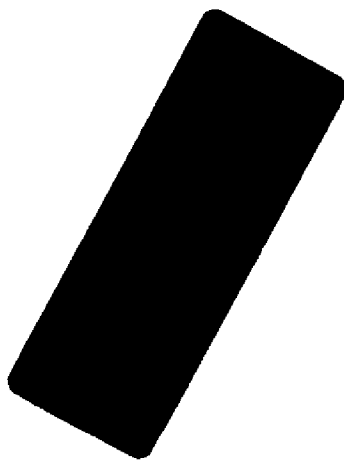
QUICKEN  
POSTAGE  
US POSTAGE \$0.05 10¢  
ZIP 99072



TO:  
District Court Clerk  
200 Lewis Ave 3rd Fl  
Las Vegas NV 89105-1160

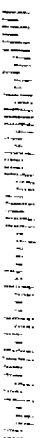
From Caesar Sanchez Mendez #94307  
P.O. Box 6570  
Tucson Arizona 85706  
Please Return Release Stamp Copy

01 0000000000 100  
0000000000 000000



TO:

Post Office Clerk  
222 Lewis Ave 3rd Fl  
Las Vegas NV 89105-1160



*Heather S. Hume*  
CLERK OF THE COURT

**ORDR**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**BERNARD ZADROWSKI**  
Chief Deputy District Attorney  
Nevada Bar #006545  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

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

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEASAR VALENCIA, #1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: I

**ORDER DENYING DEFENDANT'S MOTION FOR APPOINTMENT OF  
ATTORNEY AND REQUEST FOR EVIDENTIARY HEARING AND MOTION  
FOR CORRECTION OF ILLEGAL SENTENCE**

DATE OF HEARING: SEPTEMBER 15, 2022  
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 15th day of September, 2022, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through BERNARD ZADROWSKI, Chief Deputy District Attorney, and without argument, based on the pleadings and good cause appearing therefor,

//

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//

1 IT IS HEREBY ORDERED that the Defendant's Motion for Appointment of Attorney  
 2 and Request for Evidentiary Hearing and Motion for Correction of Illegal Sentence, shall be,  
 3 and it is DENIED. The Court of Appeals filed their Order of Affirmance on this case on September  
 9, 2022. The Court does not find that this is an illegal sentence.

4 Dated this 19th day of October, 2022

5 Brita Yeager  
 6 DISTRICT JUDGE

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

72A 566 E5C2 C0D3  
 Brita Yeager  
 District Court Judge

8  
 9 BY

10 BERNARD ZADROWSKI  
 Chief Deputy District Attorney  
 Nevada Bar #006545

11  
 12 CERTIFICATE OF MAILING

13  
 14 I hereby certify that service of the above and foregoing was made this 20th day of  
 15 October, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

16  
 17 CEASAR SANCHAZ VALENCIA, BAC #94307  
 HDSP  
 18 PO BOX 650  
 INDIAN SPRINGS, NV 89070

19  
 20 BY: DD  
 21 Secretary for the District Attorney's Office

22  
 23  
 24  
 25  
 26  
 27  
 28 16F08334X/dh/L2

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 State of Nevada

CASE NO: C-16-315580-1

7 vs

DEPT. NO. Department 1

8 Ceasar Valencia  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/19/2022

15 Anthony Irwin .

anthony.irwin@clarkcountyda.com

16 MASTER CALENDAR CLERK .

ClerkMasterCalendar@clarkcountycourts.us

17 MOTIONS .

Motions@clarkcountyda.com

18 Eileen Davis

Eileen.davis@clarkcountyda.com

19 Heather Ungermann

ungermannh@clarkcountycourts.us

20 Gregory Coyer

gcoyer@coyerlaw.com

*Alvin S. Hume*

CLERK OF THE COURT

**ORDR**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
HILARY HEAP  
Chief Deputy District Attorney  
Nevada Bar #012395  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,  
  
-vs-  
  
CEASAR VALENCIA, #1588390  
  
Defendant.

CASE NO: C-16-315580-1  
DEPT NO: I

**ORDER DENYING DEFENDANT'S MOTION FOR ORDER TO SHOW CAUSE**

DATE OF HEARING: OCTOBER 6, 2022  
TIME OF HEARING: 9:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 6th day of October, 2022, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through HILARY HEAP, Chief Deputy District Attorney, and without argument, based on the pleadings and good cause appearing therefor,

//

//

//

//

//

//

1 IT IS HEREBY ORDERED that the Defendant's Motion for Oder to Show Cause, shall  
2 be, and it is DENIED. Prior counsel, Mr. Kozal has indicated that he has sent the file to the  
3 Defendant twice.

Dated this 19th day of October, 2022

*Bita Yeager*

DISTRICT JUDGE

B0B 4A2 1A82 033C

Bita Yeager

District Court Judge

4 STEVEN B. WOLFSON  
5 Clark County District Attorney  
6 Nevada Bar #001565

7 BY

8 *[Signature]*  
9 HILARY HEAP  
10 Chief Deputy District Attorney  
11 Nevada Bar #012395

12 **CERTIFICATE OF MAILING**

13 I hereby certify that service of the above and foregoing was made this 20th day of  
14 October, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

15  
16 CEASAR SANCIAZ VALENCIA, BAC #94307  
17 HDSP  
18 PO BOX 650  
19 INDIAN SPRINGS, NV 89070

20 BY:

*[Signature]*

21 Secretary for the District Attorney's Office  
22  
23  
24  
25  
26  
27  
28

16F08334X/dh/L2



1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 State of Nevada

CASE NO: C-16-315580-1

7 vs

DEPT. NO. Department 1

8 Ceasar Valencia  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/19/2022

15 Anthony Irwin .

anthony.irwin@clarkcountyda.com

16 MASTER CALENDAR CLERK .

ClerkMasterCalendar@clarkcountycourts.us

17 MOTIONS .

Motions@clarkcountyda.com

18 Eileen Davis

Eileen.davis@clarkcountyda.com

19 Heather Ungermann

ungermannh@clarkcountycourts.us

20 Gregory Coyer

gcoyer@coyerlaw.com  
21  
22  
23  
24  
25  
26  
27  
28

Cesar Sanchez Valencia #1507  
P.O. Box 650  
Indian Springs, NV  
Defendant pro SE

FILED

NOV 08 2022

CLERK OF COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

vs.

Case No.: C-46-315580-1

Dept. No.:

REQUEST FOR EVIDENTIARY MATTER

NOTICE OF MOTION AND  
MOTION FOR CORRECTION  
OF AN ILLEGAL SENTENCE  
pursuant to NRS 176.555

Cesar Sanchez Valencia #1507

Defendant

NOTICE OF MOTION AND MOTION FOR CORRECTION ILLEGAL  
SENTENCE

YOU WILL PLEASE TAKE NOTICE THAT CESAR  
SANCHEZ VALENTIA has forwarded for filing  
and Motion Filed on August 28 2022 AND NOW I am requesting  
to reconsider Motion for correction of an illegal  
Sentence and that this Motion will come on for  
hearing before the above entitled court on  
the day of 2022 at the hour of  
o'clock in the afternoon of said  
Court.

Please take NOTICE  
pursuant to EDC Criminal Rule 3.27 Motions or papers  
of an opposition should be supplied with;

- (1) Verifying time to offer a reply
- (2) Finding of facts, conclusions of law that  
support this Court's reason that Grants or  
Denies Defendant's Motion

RECEIVED

Respectfully  
Submitted  
by Cesar Sanchez  
P.O. Box 650  
Indian Springs  
NV 89010

NOV 02 2022

**CERTIFICATE OF SERVICE BY MAILING**

I, Cesar Sanchez Valenzuela, hereby certify, pursuant to NRCP 5(b), that on this 26  
day of Oct, 2022, I mailed a true and correct copy of the foregoing, "MOTION  
NOTICE OF Motion Motu to Correct an Illegal Sentence"  
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

District Attorney  
200 Lewis St  
Las Vegas NV 89155

Clerk of the Court  
200 Lewis St  
Las Vegas NV 89155

Warden William Johnson  
High Desert State Prison  
Indian Springs NV 89018

Nevada Attorney General  
200 South Carson St  
Carson City NV 89401

CC: FILE

DATED: this 26 day of Oct, 2022.

Cesar Valenzuela

#94357

/In Propria Personam  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding

Motion for Compulsion of Legal  
Sentence  
(Title of Document)

filed in District Court Case number C-16-315580-1

☒ 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]  
Signature

05/26/2022  
Date

Cesar Sanchez Valenzuela  
Print Name

Attorney  
Title

Cesar Valencia #9430  
PO Box 650  
Indian Springs NV 89070

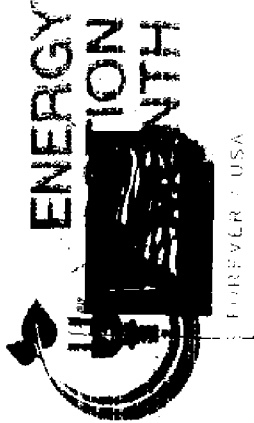
Please return file stamp copy

Vegal/Plan/beat/val  
Con/Inde/beat/val

1428

LAS VEGAS NV 890

31 OCT 2022 PM 3 L



DISTRICT COURT clerk's office  
200 Nevada Ave 3rd FL  
Las Vegas NV 89155

RECEIVED

NOV 02 2022

CLERK OF THE COURT

*Heather J. Smith*

CLERK OF THE COURT

1 NOCH

2  
3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5  
6 STATE OF NEVADA

7 Plaintiff

8 v.

9 CEASAR VALENCIA,

10 Defendant

Case No.: C-16-315580-1

Department 1

11 **NOTICE OF CHANGE OF HEARING**

12 PLEASE TAKE NOTICE that the **Motion to Correct Sentence** that was scheduled for  
13 November 29, 2022, was rescheduled to **November 17, 2022**, at the hour **9:00 a.m.**, in District  
14 Court Department 1, Courtroom 5C. All counsel are required to appear.  
15

16  
17 Dated this 9th day of November, 2022

18 *Bita Yeager*

19 EDB EFC 3E28 2EB1

20 Bita Yeager

21 District Court Judge  
22  
23  
24  
25  
26  
27  
28

1 **CSERV**

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

5  
6 State of Nevada

CASE NO: C-16-315580-1

7 vs

DEPT. NO. Department 1

8 Ceasar Valencia  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Notice of Change of Hearing was served via the court's electronic eFile  
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 11/9/2022

15 Anthony Irwin .

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25  
26  
27  
28

*Steven D. Grierson*

1 Caesar Valencia #94307  
2 PO BOX 650

3 ~~Indian Springs NV 89070~~  
4 ~~Defendant~~

District Court  
Clark County Nevada

7 THE STATE OF NEVADA

8 Plaintiff

case NO. C-16-315580-1

Dept No 1

9 Caesar Valencia #94307  
10 defendant

12 NOTICE OF APPEAL

14 To: The State of Nevada, Steven B. Wolfson, District  
15 Attorney, Clark County, Nevada And Dept 1  
16 of the EIGHTH Judicial District Court of  
17 The STATE OF Nevada AND For  
18 The County of Clark.

20 Notice is hereby given that Defendant, Caesar  
21 Sanchez Valencia #94307 presently incarcerated  
22 in Southern Desert Correctional Center  
23 Appeals to the Supreme Court of the State of Nevada  
24 from the EIGHTH Judicial District Court

25 Order Denying Motion for Correction of an Illegal  
26 Sentence and request for Appointment of Counsel  
27 Request for Extraordinary hearing entered on Oct  
28 19th 2022

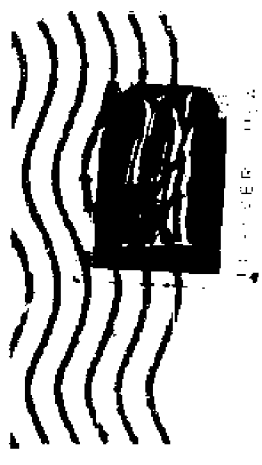
respectfully submitted,  
by Caesar Sanchez Valencia  
#94307



Cedar Valley #94307  
Box 208  
Indian Springs NV 89070

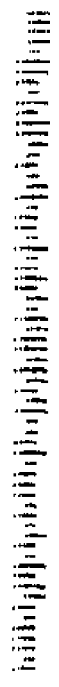
Legal Mail

LAS VEGAS NV 890  
8 NOV 2022 PM 3 L



clerk of the court  
200 Lewis St 3rd Fl  
Las Vegas NV 89155

89101-830000





1 ASTA

2  
3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 CEASAR SANCHAZ VALENCIA,

14 Defendant(s),  
15

Case No: C-16-315580-1

Dept No: 1

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Ceasar Valencia

20 2. Judge: Bitu Yeager

21 3. Appellant(s): Ceasar Valencia

22 Counsel:

23 Ceasar Valencia #94307  
24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89101

(702) 671-2700

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: Yes

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

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 8, 2016

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 75282, 81745, 83778

12. Child Custody or Visitation: N/A

Dated This 15 day of November 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Ceasar Valencia

*Heather S. Linn*  
CLERK OF THE COURT

1 **FCL**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **KAREN MISHLER**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #013730**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

12 **DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 **THE STATE OF NEVADA,**  
15 **Plaintiff,**

16 **-vs-**

17 **CEASAR SANCHAZ VALENCIA,**  
18 **#1588390**

19 **Defendant.**

20 **CASE NO: C-16-315580-1**

21 **DEPT NO: I**

22 **AMENDED**

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

24 **DATE OF HEARING: SEPTEMBER 15, 2022**  
25 **TIME OF HEARING: 9:00 AM**

26 **THIS CAUSE** having come on for hearing before the Honorable BITA YEAGER,  
27 **District Judge,** on the 17th day of November, 2022, the Petitioner not being present,  
28 **proceeding in proper person,** the Respondent being represented by STEVEN B. WOLFSON,  
29 **Clark County District Attorney,** by and through BERNARD B. ZADROWSKI, Chief Deputy  
30 **District Attorney,** and the Court having considered the matter, including briefs, transcripts,  
31 **arguments of counsel,** and documents on file herein, now therefore, the Court makes the  
32 **following findings of fact and conclusions of law:**

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

2 **PROCEDURAL HISTORY**

3 On June 9, 2016, the State filed an Information charging Defendant Ceasar Sanchaz  
4 Valencia (hereinafter "Defendant") with one count of Assault on a Protected Person With Use  
5 of a Deadly Weapon, one count of Ownership or Possession of Firearm by Prohibited Person,  
6 one count of Trafficking in Controlled Substance, and two counts of Possession of Controlled  
7 Substance. On June 10, 2016, Defendant was arraigned on the Information, at which time he  
8 entered a plea of not guilty and invoked his right to a speedy trial.

9 On November 27, 2017, the matter proceeded to trial. On December 1, 2017, the jury  
10 rendered its verdict of guilty as to all counts. On January 25, 2018, Defendant was sentenced  
11 to the Nevada Department of Corrections, pursuant to the small habitual criminal statute, as  
12 follows: Count 1 – a minimum of 84 months and a maximum of 240 months; Count 2 – a  
13 minimum of 24 months and a maximum of 72 months, concurrent to Count 1; Count 3 – a  
14 minimum of 12 months and a maximum of 48 months, concurrent with Count 2; Count 4 – a  
15 minimum of 12 months and a maximum of 48 months, concurrent with Count 3; Count 5 – a  
16 minimum of 24 months and a maximum of 72 months, concurrent to Count 4. Defendant's  
17 total aggregate sentence was a minimum of 108 months and a maximum of 312 months.  
18 Defendant received 615 days credit for time served. The Judgment of Conviction was filed on  
19 February 6, 2018.

20 On March 1, 2018, Defendant filed a Notice of Appeal. The Nevada Supreme Court  
21 affirmed Defendant's Judgment of Conviction, and remittitur issued on May 7, 2019.

22 On August 25, 2022, Defendant filed the instant Motion to Correct an Illegal Sentence,  
23 Motion to Appoint Counsel, and Request for Evidentiary Hearing. On September 14, 2022,  
24 the State filed its Opposition. On September 15, 2022, this Court denied the Motions, for the  
25 reasons stated as follows:

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## ANALYSIS

### **I. DEFENDANT CANNOT DEMONSTRATE THAT HIS SENTENCE IS ILLEGAL**

Defendant fails to demonstrate that his sentence is facially illegal, and therefore he is not entitled to any alteration of his sentence. A sentencing judge retains the power to reconsider a sentence only in certain limited situations. Under the provisions of NRS 176.555, the court may at any time correct an illegal sentence. However, "such a motion cannot be used as a vehicle for challenging the validity of a judgment of conviction or sentence based on alleged errors occurring at trial or sentencing." Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). "Motions to correct illegal sentences address only the facial legality of a sentence." Id. Motions to correct illegal sentences evaluate whether the sentence imposed on the Defendant is "at variance with the controlling statute, or illegal in the sense that the court goes beyond its authority by acting without jurisdiction or imposing a sentence in excess of the statutory maximum provided." Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)). Other claims attacking the conviction or sentence must be raised by a timely filed direct appeal or a timely filed Petition for a Post-Conviction Writ of Habeas Corpus per NRS 34.720-34.830, or other appropriate motion. See id.

In the instant Motion, Defendant first alleges that his sentence is illegal because the State failed to follow the procedure and timeline outlined in NRS 207.016. Motion at 2. However, while the provision contained in NRS 207.016 (2) uses mandatory language in imposing a proper procedure and timeline, said imposition is applicable only where the State exercises discretionary separate filing of a count pursuant to NRS 207.010, 207.012, or 207.014. NRS 207.016 (2). Given that the State did not pursue separate filing in the instant case, the procedure and timeline outlined in NRS 207. 012 (2) are inapplicable to the case at bar.

Defendant next alleges that he had both a statutory and constitutional right to a hearing on the issue of previous convictions before being sentenced as a habitual criminal. Motion at 3-6. However, Defendant's reliance on both the statute and case law cited is misplaced.

1 First, NRS 207.016 (3) holds that the court must determine the issue of a previous  
2 conviction charged only when the Defendant denies any previous conviction charged. An  
3 extensive search of the record of this case produced no evidence of any such denial. Given  
4 Defendant's failure to raise such a denial, no hearing on the issue of any previous conviction  
5 was required by NRS 207.016 (3).

6 Second, Defendant erroneously relies on Specht v. Patterson to advance his assertion  
7 that he was entitled to a hearing on the issue of previous convictions. Mot. at 7. Specht  
8 addressed a constitutional challenge of the invocation procedure for Colorado's Sex Offenders  
9 Act through the Defendant's writ of habeas corpus. Id. at 386 U.S. at 606, 87 S. Ct. at 1210.  
10 As Specht illustrates, the proper vehicle for raising a constitutional challenge to an existing  
11 statute is a writ of habeas corpus. Defendant may not raise such a challenge through his Motion.  
12 Moreover, Specht would not provide Defendant with any more support in a writ of habeas  
13 corpus, as the law in this case made "... one conviction the basis for commencing another  
14 proceeding under another Act", which is distinct from Defendant's case wherein "...the  
15 commission of a specified crime [is] the basis for sentencing." Id. at 386 U.S. at 608, 87 S. Ct.  
16 at 1211.

17 Defendant's claims attacking the procedures used to sentence him pursuant to the  
18 habitual criminal statute do not entitle him to any modification of his sentence, as they are not  
19 claims of facial illegality as required under Edwards. Accordingly, his Motion is denied.

## 20 II. DEFENDANT IS NOT ENTITLED TO AN EVIDENTIARY HEARING

21 In the habeas context, the Nevada Supreme Court has held that if claims can be resolved  
22 without expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110  
23 Nev. 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002).  
24 A Defendant is entitled to an evidentiary hearing if his petition is supported by specific factual  
25 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled  
26 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove v. State, 100  
27 Nev. 498, 503, 686 P.2d 222, 225 (1984) (holding that "[a] Defendant seeking post-conviction  
28 relief is not entitled to an evidentiary hearing on factual allegations belied or repelled by the

1 record"). "A claim is 'belied' when it is contradicted or proven to be false by the record as it  
2 existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is  
3 improper to hold an evidentiary hearing simply to make a complete record. See State v. Eighth  
4 Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) ("The district court  
5 considered itself the 'equivalent of . . . the trial judge' and consequently wanted 'to make as  
6 complete a record as possible.' This is an incorrect basis for an evidentiary hearing.").

7 Here, Defendant requests an evidentiary hearing. Motion at 1. However, such request  
8 does not extend beyond the title of the instant motion. Defendant has not shown he is entitled  
9 to an evidentiary hearing. Contentions raised in Defendant's Motion are meritless. A  
10 Defendant is only entitled to an evidentiary hearing if his Motion is supported by specific  
11 factual allegations, which if true, would entitle him to relief unless the factual allegations are  
12 repelled by the record. Marshall v. State, 110 Nev. 1328, 1331, 885 P.2d 603, 605 (1994). "A  
13 Defendant seeking post-conviction relief is not entitled to an evidentiary hearing on factual  
14 allegations belied or repelled by the record." Hargrove v. State, 100 Nev. 498, 503, 686 P.2d  
15 222, 225 (1984) (citing Grondin v. State, 97 Nev. 454, 634 P.2d 456 (1981)). Thus,  
16 Defendant's request for an evidentiary hearing is denied.

### 17 **III. DEFENDANT IS NOT ENTITLED TO THE APPOINTMENT OF** 18 **COUNSEL**

19 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-  
20 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566  
21 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada  
22 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right  
23 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to  
24 counsel provision as being coextensive with the Sixth Amendment to the United States  
25 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)  
26 (entitling appointed counsel when Defendant is under a sentence of death), one does not have  
27 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at  
28 164, 912 P.2d at 258.



1 Defendant requests this Court appoint him counsel. He has not demonstrated the  
2 appointment of counsel is warranted. He offers no support for this request other than a citation  
3 to NRS 34.750. This statute provides courts with discretion to appoint counsel to assist in the  
4 filing of a petition for postconviction relief, not a motion to correct illegal sentence. As stated  
5 above, Petitioner's contention that his sentence is illegal is flatly incorrect. Petitioner's request  
6 is suitable only for summary denial as he has failed to provide any specific facts to support his  
7 bare and naked request. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, his Motion  
8 for Appointment of Counsel is denied.

9 **ORDER**

10 THEREFORE, IT IS HEREBY ORDERED that the Motion to Correct Illegal Sentence,  
11 Motion for Appointment of Counsel, and Request for Evidentiary Hearing shall be, and they  
12 are, hereby DENIED.

Dated this 28th day of November, 2022

*Brita Yeager*

13  
14 DISTRICT JUDGE

F4A CF8 5624 4BD2  
Brita Yeager  
District Court Judge

15 STEVEN B. WOLFSON  
16 Clark County District Attorney  
Nevada Bar #001565

17 BY

*Karen Mishler*  
18 KAREN MISHLER  
19 Chief Deputy District Attorney  
Nevada Bar #013730

20 **CERTIFICATE OF MAILING**

21 I hereby certify that service of the above and foregoing was made this 22nd day of  
22 November, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

23  
24 CESAR SANCIAZ VALENCIA, BAC #94307  
25 IIDSP  
PO BOX 650  
26 INDIAN SPRINGS, NV 89070

27 BY:

*[Signature]*  
Secretary for the District Attorney's Office

28 16F08334X/KM/dh/L2

1 **CSERV**

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

5  
6 State of Nevada

CASE NO: C-16-315580-1

7 vs

DEPT. NO. Department 1

8 Ceasar Valencia  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
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anthony.irwin@clarkcountyda.com

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