

NO. 85793

53. Complete Indigent File Stamped Copy
Required Pursuant to Gluth v. Kangas

FILED
FIFTH JUDICIAL DISTRICT

NOV 07 2022

Nye County Clerk
Deputy

DEC 13 2022

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

Inmate Name Back #
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner ~~in Proper Person~~

IN THE SUPREME COURT OF THE STATE OF NEVADA

peter helfrich
Petitioner,
vs. 5th Judicial District
Court, et. al.

Nevada Supreme Court No. _____
To Be Supplied by Clerk
District Court Case No. CR20-0145
20CR01449

**PETITION FOR WRIT OF MANDAMUS/
PROHIBITION, 28 USC 1746, (1); w/o USA
(NRS 34.150 through 34.320)**

FILING FEES WAIVED: CRIMINAL

Respondent(s). _____

COMES NOW, Petitioner, peter helfrich, in proper person,
and hereby submits his Petition for Writ of Mandamus/Prohibition pursuant to NRS
34.150 through 34.329. There is no appeal from Respondent's action and Petitioner

has no other plain, speedy, or adequate remedy other than a Writ of
See Affidavit of Motion = Emergency Motion for a
Mandamus/Prohibition. *TRO/Injunction - FILED 12/15/2021.*
An Emergency Motion should be ruled upon in 90 days or less.
This Petition is made and based upon the attached Memorandum of Points and

Authorities, all papers and pleadings on file, as well as any additional facts, law,
argument, witnesses or evidence that may be presented at the hearing of this matter, if
COMPLETE INDIGENT FILE STAMPED COPY REQUIRED
any.

Dated this 30 day of October, 2022.

peter helfrich
Inmate Name Back #
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner ~~in Proper Person~~

RECEIVED
NOV 28 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

22-39082

MEMORANDUM OF POINTS AND AUTHORITIES

I. Law Pertaining to Mandamus/Prohibition.

A writ of mandamus is an extraordinary remedy available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; Int'l Game Tech., Inc. v. Second Judicial Dist. Court, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008).

A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; Smith v. Eighth Judicial Dist. Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

Whether a petition for extraordinary relief will be considered is within this court's sole discretion, Smith, 107 Nev. at 677, 818 P.2d at 851, and it is petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Eighth Judicial Dist. Court, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Moreover, writ relief is available only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; Int'l Game Tech., 124 Nev. at 197, 179 P.3d at 558. Generally, an appeal is an adequate legal remedy precluding writ relief. Pan, 120 Nev. at 224, 88 P.3d at 841.

Here, Mandamus/Prohibition is warranted based upon the following:

II. Procedural and Factual Background/Argument.

The attached Emergency Motion for a TRO / Injunction was FILED 12/15/2021; it should have been ruled upon in 90 days or less.
I need the Nevada Supreme Courts divine intervention to
compel Judge David Gamble to rule upon said emergency motion
ASAP.

FILED
FIFTH JUDICIAL DISTRICT

DEC 15 2021

Nye County Clerk
Deputy

5th Judicial District Court
of Nye County, Nevada

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

Peter Helfrich

Affiant

NDOC Director Charles Daniels
vs. Warden (HDSP) Calvin Johnson
FNU Graham
State of Nevada, et. al.

Respondents

20CR01449

Case No. CR 20-0145

Dept No. _____

Docket _____

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE, that Emergency Affidavit of Motion
for a TRO / Preliminary Injunction

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

CC: FILE STAMPED COPY REQUIRED

DATED: this 8th day of December, 2021.

BY: Peter Helfrich

**SWORN DECLARATION IN SUPPORT OF AFFIDAVIT'S
EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION (second attempt to file)**
Peter-Jason Helfrich declares:

1. I am the Affiant, in this case. I make this declaration pursuant to 28 USC 1746.(1); w/o USA in support of my Motion for an Emergency Temporary Restraining order and a Preliminary Injunction to ensure I receive meaningful access to courts.
2. As this is my second draft & attempt to file; HDSP officials are hindering, vexing, harassing my meaningful access to courts since 8/18/2021. It is upon information & belief that my outgoing legal mail is being red-flagged & intercepted. My previous attempt to mail/file this Emergency TRO/Injunction was thwarted by HDSP officials.
3. Since 8/18/2021, I am being denied access to Law Clerks, Legal Copywork, indigent Legal supplies, access to HDSP's Law Library; & some of my outgoing Legal mail (Motion for sentencing hearing transcripts, TRO/Injunction, etc.) is being put in my unit mailbox, but it's not making its way to this court.
4. On information and belief, there is an informal policy at HDSP to hinder, vex, harass, obstruct inmates meaningful access to courts by refusing to provide them access to Law Clerks, Legal Copywork, indigent Legal supplies, access to HDSP's Law Library. Their likely excuse is hiding behind COVID 19 which is a man made virus with a 99% survival rate, & a U.S. Patent. I am unable to meaningfully litigate this case at Bar due to the aforementioned facts. I need this Motion to be granted in all respects, &/or to be appointed Counsel to assist me.
5. Together, these Respondents have the responsibility of providing all inmates meaningful access to courts; & they have no right to intercept my Legal mail. For the reasons set forth herein this Affidavit and Memorandum of Law filed with this motion, Peter Helfrich is entitled to an Emergency Temporary Restraining order requiring Respondents provide the aforementioned access to courts. For the foregoing reasons, this Court should grant this motion in all respects.

28 USC 1746.(1); w/o USA

Date: 12/18/2021

By: Peter Helfrich

UCC1-207/1-308/3-402(b)

MEMORANDUM OF LAW IN SUPPORT OF
AFFIANT'S EMERGENCY MOTION FOR A TRO/PRELIMINARY INJUNCTION
Statement of Case & Facts

This is a Habeas Corpus action to which i am seeking an order to
correct my PSI Report by amending it (etc.). HDSP Officials are
intercepting my outgoing mail & depriving me meaningful access to
Law Clerks, Legal Copywork, indigent Legal Supplies, Law Library access, etc

POINT I

EMERGENCY
THE AFFIANT IS ENTITLED TO A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

A. This Affiant is Threatened with Irreparable Harm

The Affiant alleges that he is being denied meaningful access to court(s),
that HDSP officials are intercepting some of his outgoing Legal Mail in
regards to this instant case at Bar. Such conduct by prison officials
violates my rights to access to Courts. See: *Bounds v. Smith*; &
Gluth v. Kangas..... As a matter of law, the continuing deprivation
of my constitutional rights constitutes irreparable harm. *Elrod v. Burns*,
427 U.S. 347, 373, 96 S.Ct. 2637 (1976).... In addition, i am threatened
with irreparable harm because i can not fairly or meaningfully litigate
this case due to Respondents misconduct. This SECOND ATTEMPT to
file this Emergency Motion is proof of the continuing wrongs of
Respondents underlings.

B. The Balance of Hardships Favors the Affiant; because the suffering of
the moving party far outweighs the suffering of Respondents simply
following the Law, constitution, etc. The Affiant's suffering & potential
inability to convince this Court to grant said Habeas Corpus to correct
his PSI could prevent the Affiant from getting his first Parole, etc.
Respondents 'sufferings' amounts to following the constitution &
doing what they should have been doing in the first place.

C.. The Plaintiff is likely to succeed on the Merits; because what Respondents have done - instituting an informal policy to hinder, vex, harass this Affiant's meaningful ability to litigate this instant case, as well as intercepting his outgoing legal mail.

This Affiant needs the aforementioned Access to Courts, &/or Competent Counsel to assist in this case. at Bar.

D. The Relief Sought Will Serve the Public Interest; because it is always in the Public interest for Prison officials to obey the law, especially the Constitution.

POINT II

THE INDIGENT AFFIANT SHOULD NOT BE REQUIRED TO POST SECURITY
The Affiant is indigent and unable to post security. This court has discretion to excuse me from posting security.

For the foregoing reasons, the court should grant this motion in all respects. 28 USC 1746, (1); W/O USA

Date: 12/8/2021 By: Peter: Helfrich

UCC1-20711-308/3-402(6)

Affidavit of Certificate of service: i mailed the Affidavit above to: Clerk of Court: 1520 E. Basin Road, Pahrump Nevada on 12/8/2021. 28 USC 1746, (1); W/O USA

By: Peter: Helfrich

Dear Clerk of Court
i need a file stamped copy of this motion & an up to date case summary

III. Conclusion and Prayer for Relief

THEREFORE, based upon the foregoing, Petitioner respectfully requests that
Order Judge Gamble to rule upon said emergency motion ASAP.
this Court: He should have ruled upon it in 90 days or less.

1. Grant the above request for Mandamus Prohibition; and
2. Any further and necessary relief as deemed appropriate by this Court.

"I declare under penalty of perjury under the law of the State of Nevada (NRS 53.045) that the foregoing is true and correct;" *28 USC 1746(1); w/o USA*

Dated this 30th day of October, 2022.

:peter: helfrich
Inmate Name Back #
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

CERTIFICATE OF SERVICE BY MAILING

I, *:peter: helfrich*, Petitioner in ~~Proper Person~~, hereby certify,
pursuant to NRCP 5(b), that on this 30th day of October, 2022, I mailed a
true and correct copy of this Writ Petition by depositing it in the High Desert State

Prison, Legal Library, First Class Postage, full prepaid and addressed as follows:

Nye County Clerk's Office
1520 E. Basin Ave.
Pahrump, NV 89060

Supreme Court of Nevada
201 S. Carson St., Ste 201
Carson City, NV 89701

Counsel for Respondents
28 USC 1746(1); w/o USA

Dated this 30 day of October, 2022.

:peter: helfrich
Inmate Name Back #
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner ~~in Proper Person~~