

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN PHILLIP BONHAM,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Jan 05 2023 02:02 PM
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-21-844910-W
Related Case C-15-307298-1
Docket No: 85890

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
BRYAN BONHAM #60575,
PROPER PERSON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

A-21-844910-W Bryan Bonham, Plaintiff(s) vs. Calvin Johnson, Warden (HDSP),
Defendant(s)

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ASSEMBLY BILL NO. 43—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED DECEMBER 20, 2012 _____

Referred to Committee on Judiciary

SUMMARY—Clarifies provisions governing credits earned by an offender which reduce the offender's term of imprisonment. (BDR 16-318)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

~ EXPLANATION — Matter in bolded italics is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to offenders; clarifying provisions governing credits earned by an offender which reduce the term of imprisonment of the offender; and providing other matters properly relating thereto.

Legislative Counsel's Digest: Under existing law, certain offenders who have been sentenced to a term of 1 imprisonment generally may earn certain amounts of credit for various 2 achievements. Any amount of credit earned is applied to the length of the 3 offender's term of imprisonment and thereby reduces the offender's sentence. (NRS 4 209.432-209.451) This bill: (1) clarifies that an offender may not earn more than 5 the amount of credit required to expire his or her sentence; and (2) specifies that 6 such a provision shall not be construed to reduce retroactively the amount of credit 7 earned by an offender if doing so would constitute a violation under the 8 Constitution of the United States or the Constitution of the State of Nevada. 9

EX

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 209 of NRS is hereby amended by adding 1 thereto a new section to read as follows: 2 1. Notwithstanding any provision of this section and NRS 3 209.432 to 209.451, inclusive, which entitles an offender to receive 4 credit or which authorizes the Director to allow credit for an 5

- 2 -

- *AB43*

offender, an offender may not earn more than the amount of 1 credit required to expire his or her sentence. 2 2. Nothing in this section shall be construed to reduce 3 retroactively the amount of credit earned by an offender if doing 4 so would constitute a violation under the

1

EXHIBIT 66 477

92

EXHIBIT 66 11 99

37

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- 2 -

- *AB43*

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1

EXHIBIT 66 477

92

Assembly Final
Passage

(As Introduced) Mar 27, Yea Nay Excused Not Voting Absent
2013 41, 0, 1, 0, 0

Bill Text

As Introduced

Bill History

Dec 20, 2012

- Prefiled. Referred to Committee on Judiciary. To printer.

Dec 27, 2012

- From printer.

Feb 04, 2013

- Read first time. To committee.

Mar 25, 2013

- From committee: Do pass.

Mar 26, 2013

- Read second time.

Mar 27, 2013

- Read third time. Passed. Title approved. (Yeas: 41, Nays: None, Excused: 1.) To Senate.

Mar 28, 2013

- In Senate.
- Read first time. Referred to Committee on Judiciary. To committee.

77th (2013) Session
Vote on AB43 (As Introduced) on
Assembly Final Passage
March 27, 2013 at 11:46 AM

| 41 Yea | 0 Nay | 1 Excused | 0 Not Voting | 0 Absent |

| | |
|-------------------------|---------|
| Paul Aizley | Yea |
| Paul Anderson | Yea |
| Elliot Anderson | Yea |
| Teresa Benitez-Thompson | Yea |
| David Bobzien | Yea |
| Steven Brooks | Excused |
| Irene Bustamante Adams | Yea |
| Maggie Carlton | Yea |
| Richard Carrillo | Yea |
| Lesley Cohen | Yea |
| Skip Daly | Yea |
| Olivia Diaz | Yea |
| Marilyn Dondero Loop | Yea |
| Wesley Duncan | Yea |
| Andy Eisen | Yea |
| John Ellison | Yea |
| Michele Fiore | Yea |
| Lucy Flores | Yea |

| | |
|---------------------|-----|
| Jason Frierson | Yea |
| Tom Grady | Yea |
| John Hambrick | Yea |
| Ira Hansen | Yea |
| Crescent Hardy | Yea |
| James Healey | Yea |
| Pat Hickey | Yea |
| Joseph Hogan | Yea |
| William Horne | Yea |
| Marilyn Kirkpatrick | Yea |
| Randy Kirner | Yea |
| Peter Livermore | Yea |
| Andrew Martin | Yea |
| Harvey Munford | Yea |
| Dina Neal | Yea |
| James Ohrenschall | Yea |
| James Oscarson | Yea |
| Peggy Pierce | Yea |
| Ellen Spiegel | Yea |
| Michael Sprinkle | Yea |
| Lynn Stewart | Yea |
| Heidi Swank | Yea |
| Jim Wheeler | Yea |
| Melissa Woodbury | Yea |

66499

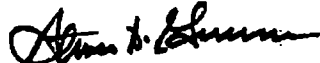
Exhibit 66 11 99

Constitution of the 5 United States or the Constitution of the State of Nevada. 6 Sec. 2. NRS 209.432 is hereby amended to read as follows: 7 209.432 As used in NRS 209.432 to 209.451, inclusive, and 8 section 1 of this act, unless the context otherwise requires: 9 1. "Offender" includes: 10 (a) A person who is convicted of a felony under the laws of this 11 State and sentenced, ordered or otherwise assigned to serve a term 12 of residential confinement. 13 (b) A person who is convicted of a felony under the laws of this 14 State and assigned to the custody of the Division of Parole and 15 Probation of the Department of Public Safety pursuant to NRS 16 209.4886 or 209.4888. 17 2. "Residential confinement" means the confinement of a 18 person convicted of a felony to his or her place of residence under 19 the terms and conditions established pursuant to specific statute. The 20 term does not include any confinement ordered pursuant to NRS 21 176A.530 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 22 213.15105, 213.15193 or 213.152 to 213.1528, inclusive. 23 Sec. 3. This act becomes effective upon passage and approval.

66499

exhibit 66499 97 46

EXHIBIT 4a


CLERK OF THE COURT

1 **RSPN**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **H. LEON SIMON**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #00411**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

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

11 **-vs-**

CASE NO:

DEPT NO:

12
13 **Defendant.**
14

15 **RESPONSE TO DEFENDANT'S MOTION TO**
16 **DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**
17 **& OPPOSITION TO DEFENDANT'S MOTION TO APPOINT COUNSEL**

18 **DATE OF HEARING: MARCH 25, 2013**

19 **TIME OF HEARING: 8:00 AM**

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
21 District Attorney, through H. LEON SIMON, Chief Deputy District Attorney, and hereby
22 submits the attached Points and Authorities in Response to Defendant's Motion to Dismiss
23 for Lack of Subject Matter Jurisdiction & Opposition to Defendant's Motion to Appoint
24 Counsel.

25 This Response 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 Defendant any credit for time served. Judgment of Conviction was filed on July 6, 2007.
2 Defendant did not file a direct appeal.

3 On August 7, 2009, Defendant filed a Motion to Clarify Sentence. On August 13,
4 2009, the State filed its Opposition. On August 17, 2009, the court ordered the State to send
5 a copy of Defendant's Judgment of Conviction, delineating the correct sentence, to
6 Defendant.

7 On December 15, 2009, Defendant filed a Pro Per Petition for Writ of Habeas Corpus.
8 On February 10, 2010, the State, through the Attorney General's Office, filed its Answer.
9 On February 17, 2010, the court denied Defendant's Petition. Findings of Fact, Conclusions
10 of Law and Order was filed on March 1, 2010. On March 8, 2010, Defendant filed a Notice
11 of Appeal. On July 15, 2010, the Nevada Supreme Court affirmed the judgment of the
12 district court. [REDACTED]. Remittitur issued on August 9, 2010.

13 On March 7, 2011, Defendant filed a Motion to Modify Sentence. The State filed its
14 Opposition on March 16, 2011. On March 21, 2011, the court denied Defendant's motion.
15 The Findings of Fact Conclusions of Law and Order was filed on April 5, 2011. Defendant
16 refilled his Motion to Modify Sentence on April 12, 2011, and the court again denied the
17 motion on April 25, 2011.

18 On February 28, 2013, Defendant filed the instant Motion to Dismiss for Lack of
19 Subject Jurisdiction and a Motion for Appointment of Counsel. The State's Response to the
20 Motion to Dismiss and Opposition to the Motion for Appointment of Counsel follows.

21 ARGUMENT

22 **I. DEFENDANT'S MOTION TO DISMISS IS WITHOUT MERIT**

23 Defendant claims that the court lacked subject matter jurisdiction over his crimes and
24 therefore his sentence (and indeed, his crime itself) is an unenforceable fiction. Specifically,
25 Defendant argues that the statutes under which he was charged and convicted are
26 unconstitutional, as they each lack the enacting clause mandated by Article 4, Section 23 of
27 the Nevada Constitution. This argument is without merit.

28 ///

1 The enacting clause of the Nevada Constitution states, "The enacting clause of every
2 law shall be as follows: 'The people of the State of Nevada represented in Senate and
3 Assembly, do enact as follows,' and no law shall be enacted except by bill." NEV. CONST. art
4 4, § 23. This court has interpreted the enacting clause to require that all laws express upon
5 their face "the authority by which they were enacted." State of Nevada v. Rogers, 10 Nev.
6 250, 261 (1875). Defendant asserts that the laws under which he was charged and convicted,
7 as compiled in the Nevada Revised Statutes, lack this enacting clause and are therefore
8 unconstitutional. ^{start} It may be argue that The Accused

9 ~~However, Defendant's~~ argument conflates the laws of Nevada with the codified
10 statutes. The Nevada Revised Statutes "constitute the official codified version of the
11 Statutes of Nevada and may be cited as prima facie evidence of the law." NRS 220.170(3).
12 ~~The Nevada Revised Statutes~~ consist of enacted laws which have been classified, codified,
13 and annotated by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are
14 contained in the Statutes of Nevada, which do contain the mandatory enacting clauses.
15 Moreover, NRS 220.110, which sets forth the required contents of the Nevada Revised
16 Statutes, does not mandate that the enacting clauses be republished in the Nevada Revised
17 Statutes. Thus, the fact that the Nevada Revised Statutes do not contain enacting clauses
18 does not render the statutes unconstitutional. See Ledden v. State, 686 N.W.2d 873, 876-77
19 (Minn.2004) (holding that, where appellant argued that his convictions were unconstitutional
20 because statutes under which he was charged did not contain constitutionally required
21 enacting clauses, appellant's convictions were not unconstitutional as acts creating and
22 amending laws began with required phrase); State v. Wittine, No. 90747, 2008 WL 4813830,
23 (Ohio Ct.App. Nov. 6, 2008) (holding that omission of constitutionally required enacting
24 clauses in Ohio Revised Code "in no way affects the validity of the statutes themselves"
25 where clauses were contained in senate bill enacting laws). Therefore, Defendant's
26 convictions are not constitutionally deficient. Defendant's Motion to Dismiss must be
27 denied.

28 ///

1 **II. DEFENDANT IS NOT ENTITLED TO APPOINTMENT OF COUNSEL**

2 In Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546 (1991), the United States
3 Supreme Court ruled that the Sixth Amendment provides no right to counsel in post-
4 conviction proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the
5 Nevada Supreme Court similarly observed that "[t]he Nevada Constitution...does not
6 guarantee a right to counsel in post-conviction proceedings, as we interpret the Nevada
7 Constitution's right to counsel provision as being coextensive with the Sixth Amendment to
8 the United States Constitution."

9 NRS 34.750 provides, in pertinent part:

10 [a] petition may allege that the Defendant is unable to pay the
11 costs of the proceedings or employ counsel. If the court is
12 satisfied that the allegation of indigency is true and the petition is
13 not dismissed summarily, the court may appoint counsel at the
14 time the court orders the filing of an answer and a return. In
15 making its determination, the court may consider whether:

- 16 (a) The issues are difficult;
17 (b) The Defendant is unable to comprehend the
18 proceedings; or
19 (c) Counsel is necessary to proceed with discovery.

20 Under NRS 34.750, it is clear that the court has discretion in determining whether to appoint
21 counsel. McKague specifically held that with the exception of NRS 34.820(1)(a) [entitling
22 appointed counsel when petition is under a sentence of death], one does not have "[a]ny
23 constitutional or statutory right to counsel at all" in post-conviction proceedings. 112 Nev.
24 at 164, 912 P.2d at 258.

25 Here, Defendant fails to state any purpose for which he might need counsel.
26 Furthermore, Defendant has failed to allege that he is unable to pay the costs of the
27 proceedings or employ counsel. Defendant also has not provided the Court with the issues
28 he intends to raise in his petition. Accordingly, the Court cannot determine whether the
issues are meritorious and whether they are so difficult as to necessitate appointment of
counsel, as required under NRS 34.750. Finally, the State would note that Defendant has
filed petitions in the past, which were denied, and Defendant's Judgment of Conviction was
filed on July 6, 2007, from which Defendant did not file a direct appeal. Thus, any petition

1 Defendant were to file would be procedurally barred under NRS 34.726 and NRS 34.810.
2 The State therefore submits that it would be a waste of public funds to appoint post-
3 conviction counsel to represent Defendant. Defendant's motion ought to be denied.

4 CONCLUSION

5 Based on the foregoing arguments, the State respectfully requests that Defendant's
6 Motion to Dismiss for Lack of Subject Matter Jurisdiction and Motion for Appointment of
7 Counsel be denied.

8 DATED this 18th day of March, 2013.

9 Respectfully submitted,

10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 Nevada Bar #001565

13 BY /s/ J. Timothy Fattig for
14 H. LEON SIMON
15 Chief Deputy District Attorney
16 Nevada Bar #00411

17 Certificate of Service

18 I, Stephanie Johnson, certify that on the 18th day of March, 2013, I mailed a copy of
19 the above and foregoing to [REDACTED]
20 [REDACTED] for his review.

21 BY: /s/ Stephanie Johnson

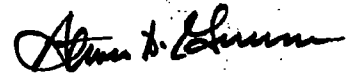
22 S. Johnson
23 Employee of the District Attorney's Office
24
25
26
27

28 06F24335X/HLS/SJ/L-1

EXHIBIT 4b

STATES RESPONSE TO

GARY W. WALLERS CASE NO 05C217569


CLERK OF THE COURT

1 **OPPS**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 J. TIMOTHY FATTIG
6 Chief Deputy District Attorney
7 Nevada Bar #006639
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

12 -vs-

13 GARY WALTERS,
14 #1695384

Defendant.

CASE NO: 05C217569

DEPT NO: III

15 STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR LACK OF
16 SUBJECT MATTER JURISDICTION, "ERRATA TO ACCUSED MOTION TO DISMISS
17 FOR LACK OF SUBJECT MATTER JURISDICTION/MOTION FOR SHOW OF
18 PROOF," "CAVEAT," AND MOTION FOR DISCOVERY/MOTION FOR ORDER TO
19 SHOW CAUSE

20 DATE OF HEARING: AUGUST 6, 2013
21 TIME OF HEARING: 9:00 AM

22 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
23 District Attorney, through J. TIMOTHY FATTIG, Chief Deputy District Attorney, and
24 hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to
25 Dismiss for Lack of Subject Matter Jurisdiction, "Errata to Accused Motion to Dismiss for
26 Lack of Subject Matter Jurisdiction/Motion for Show of Proof," "Caveat," and Motion for
27 Discovery/Motion for Order to Show Cause.

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

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On December 7, 2005, a grand jury indicted Gary Wayne Walters ("Defendant") on
4 the following charges: Counts 1, 4, 9, 15, & 18 – Forgery (Felony – NRS 205.090, 205.110);
5 Counts 2, 5, 7, 12, 13, & 14 – Theft (Felony – NRS 205.0832, 205.0835); Counts 3, 6, 10,
6 16, & 19 – Offering False Instrument for Filing or Record (Felony – NRS 239.330); and
7 Counts 8, 11, & 17 – Attempt Theft (Felony – NRS 205.0832, 205.0835, 193.330).

8 On February 4, 2008, Defendant's trial commenced. On February 7, 2008, the jury
9 convicted Defendant on all counts except counts 7 (Theft) and 19 (Offering False Instrument
10 for Filing or Record).

11 On June 3, 2008, Defendant was adjudged guilty of counts 1-6 and 8-18 as charged in
12 the Indictment and sentenced to imprisonment in the Nevada Department of Corrections as
13 follows: Count 1 – Maximum forty-eight (48) months with a minimum parole eligibility of
14 sixteen (16) months; Count 2 – Maximum one hundred twenty (120) months with a
15 minimum parole eligibility of forty-eight (48) months, sentence to run concurrent with count
16 1; Count 3 – Maximum forty-eight (48) months with a minimum parole eligibility of sixteen
17 (16) months, sentence to run concurrent with count 2; Count 4 – Maximum forty-eight (48)
18 months with a minimum parole eligibility of sixteen (16) months, sentence to run
19 consecutive to count 2; Count 5 – Maximum one hundred twenty (120) months with a
20 minimum parole eligibility of forty-eight (48) months, sentence to run concurrent with count
21 4 and consecutive to count 2; Count 6 – Maximum forty-eight (48) months with a minimum
22 parole eligibility of sixteen (16) months, sentence to run concurrent with counts 4 and 5 and
23 consecutive to count 2; Count 8 – Maximum forty-eight (48) months with a minimum parole
24 eligibility of sixteen (16) months, sentence to run consecutive to count 5; Count 9 –
25 Maximum forty-eight (48) months with a minimum parole eligibility of sixteen (16) months,
26 sentence to run concurrent with count 8 and consecutive to count 5; Count 10 – Maximum
27 forty-eight (48) months with a minimum parole eligibility of sixteen (16) months, sentence
28 to run concurrent with counts 8 and 9 and consecutive to count 5; Count 11 – Maximum one

1 hundred twenty (120) months with a minimum parole eligibility of forty-eight (48) months,
2 sentence to run consecutive to count 5; Count 12 – Maximum one hundred twenty (120)
3 months with a minimum parole eligibility of forty-eight (48) months, sentence to run
4 consecutive to count 11; Count 13 – Maximum one hundred twenty (120) months with a
5 minimum parole eligibility of forty-eight (48) months, sentence to run consecutive to count
6 12; Count 14 – Maximum one hundred twenty (120) months with a minimum parole
7 eligibility of forty-eight (48) months, sentence to run consecutive to count 13; Count 15 –
8 Maximum forty-eight (48) months with a minimum parole eligibility of sixteen (16) months,
9 sentence to run consecutive to count 14; Count 16 – Maximum forty-eight (48) months with
10 a minimum parole eligibility of sixteen (16) months, sentence to run concurrent with count
11 15 and consecutive to count 14; Count 17 – Maximum forty-eight (48) months with a
12 minimum parole eligibility of sixteen (16) months, sentence to run concurrent with count 16;
13 Count 18: Maximum forty-eight (48) months with a minimum parole eligibility of sixteen
14 (16) months, sentence to run concurrent with count 15. Defendant was awarded ninety-five
15 (95) days credit for time served. Additionally, Defendant was ordered to pay restitution in
16 the amount of \$470,300.00 to Richard & Sandra Larison and \$146,949.00 to Robert Garcia.
17 A Judgment of Conviction was filed on July 17, 2008.

18 Defendant filed a direct appeal from his conviction on July 23, 2008. The Nevada
19 Supreme Court issued an Order of Affirmance on February 3, 2010. Remittitur issued on
20 July 19, 2010.

21 On November 15, 2010, Defendant filed a Petition for Writ of Habeas Corpus.
22 Defendant filed a Supplemental Petition on December 8, 2010. The State filed a Response on
23 January 19, 2011. Defendant filed a Reply on February 1, 2011. On February 17, 2011, the
24 court denied Defendant's Petition. A Findings of Fact, Conclusions of Law and Order was
25 filed on April 26, 2011. A Notice of Entry of Decision and Order was filed on May 2, 2011.

26 Defendant filed a Notice of Appeal from the denial of his Petition on May 18, 2011.
27 On July 15, 2011, the Nevada Supreme Court reversed and remanded the case for the
28 appointment of counsel to assist Defendant with his Petition. Remittitur issued on August 12,

1 2011. On August 16, 2011, Joshua Tomsheck was appointed to assist Defendant with his
2 Petition. To date, no supplemental petition has been filed.

3 On December 5, 2012, Defendant filed a Pro Per Motion to Reverse his Case,
4 claiming he suffered from an illegal sentence. The State filed an Opposition on December
5 11, 2012. On December 18, 2012, the court took the matter off calendar to provide counsel
6 time to file a Supplement to the Motion.

7 On February 19, 2013, Defendant, through counsel, filed a Motion to Modify or
8 Vacate Illegal Sentence. On March 20, 2013, Defendant, through counsel, filed an Errata to
9 Motion to Modify or Vacate Illegal Sentence. The State filed a Response on April 15, 2013.
10 Defendant filed a Reply on April 24, 2013. The State filed a Response to New Arguments
11 Raised in Defendant's Reply to the State's Response on May 17, 2013. On May 30, 2013,
12 the court ruled that it did not believe Defendant's entire sentence needed to be vacated, but
13 the restitution was erroneous. As such, the court ordered the following changes to
14 Defendant's Judgment of Conviction: \$146,949.00 restitution is to be reduced by \$50,000.00
15 to \$96,949.00, Counts 4-6 is to be concurrent with each other and consecutive to Count 2,
16 Count 11 should be changed to a maximum of thirty (30) months to a minimum of twelve
17 (12) months in the Nevada Department of Corrections and concurrent with Count 10, and
18 Count 12 is to be modified to reflect consecutive to Count 8, not Count 11. An Amended
19 Judgment of Conviction reflecting these changes was filed on June 5, 2013.

20 On July 16, 2013, Defendant filed the instant Motion to Dismiss for Lack of Subject
21 Matter Jurisdiction, "Errata to Accused Motion to Dismiss for Lack of Subject Matter
22 Jurisdiction/Motion for Show of Proof," "Caveat," and Motion for Discovery/Motion for
23 Order to Show Cause. The State's Opposition follows.

24 **ARGUMENT**

25 **I. FUGITIVE DOCUMENT – EJDRC 7.40(a)**

26 Defendant's instant pro per Motions should be dismissed as a fugitive document.

27 EJDRC 7.40(a) states:

28 ///

1 When a party has appeared by counsel, the party cannot
2 thereafter appear on the party's own behalf in the case without
3 the consent of the court. Counsel who has appeared for any party
4 must represent that party in the case and shall be recognized by
the court and by all parties as having control of the case. The
court in its discretion may hear a party in open court although the
party is represented by counsel.

5 On August 16, 2011, Joshua Tomsheck, Esq., was confirmed as counsel regarding
6 Defendant's post conviction issues. On December 16, 2012, Jason Landess, Esq., filed a
7 Notice of Appearance for the limited purpose of representing Defendant in connection with a
8 Motion to Modify Sentence filed on February 19, 2013. The instant Motion was filed on
9 July 16, 2013. Either way, Defendant is represented by counsel and did not obtain leave of
10 court to file the instant Motions. Because Defendant cannot appear on his own behalf after
11 he had appeared by counsel, the instant Motions should be stricken as fugitive pleadings.

12 **II. THIS COURT HAS SUBJECT MATTER JURISDICTION OVER**
13 **DEFENDANT'S CASE**

14 In Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction, "Errata to
15 Accused Motion to Dismiss for Lack of Subject Matter Jurisdiction/Motion for Show of
16 Proof," and "Caveat," he contends this Court is without subject matter jurisdiction because
17 the Nevada Revised Statutes version of the statutes under which he pleaded guilty do not
18 contain the enacting clause. "The enacting clause of every law shall be as follows: 'The
19 People of the State of Nevada, represented in Senate and Assembly, do enact as follows,'
20 and no law shall be enacted except by bill." NEV. CONST. art. 4, § 23. The Nevada Supreme
21 Court has interpreted this Constitutional provision to mean an enacting clause must be
22 included in every law created by the Legislature and the law must express on its face "the
23 authority by which they were enacted." State v. Rogers, 10 Nev. 250, 1875 WL 4032, 7
24 (1875). The Court further found that nothing can be law that is not introduced by the very
25 words of the enacting clause. Id. at 256.

26 However, while it is well established that the laws of Nevada must include an
27 enacting clause, the Nevada Revised Statutes do not have the same requirement, as they are
28 not laws enacted by the legislature. Instead, the Nevada Revised Statutes consist of

1 *previously enacted laws* which have been classified, codified, and annotated by the
2 Legislative Counsel. See NRS 220.120. Thus, the reason the Nevada Revised Statutes are
3 referenced in criminal proceedings is because they “constitute the official codified version of
4 the Statutes of Nevada and may be cited as *prima facie* evidence of the law.” NRS
5 220.170(3) (emphasis added). Further, the content requirements for the Nevada Revised
6 Statutes, as laid out in NRS 220.110, do not require the enacting clause to be republished in
7 them. See NRS 221.110. Therefore, the lack of an enacting clause in the Nevada Revised
8 Statutes does not render them unconstitutional.

9 Here, Defendant does not attack the specific statutes under which he was convicted
10 but instead attacks all of the Nevada Revised Statutes. In accordance with the law as stated
11 above, the Nevada Revised Statutes were properly cited to and used in referencing the law
12 Defendant was accused and later convicted of violating. Therefore, Defendant’s argument is
13 without merit and should be denied.

14 Inasmuch as Defendant contends this Court is without subject matter jurisdiction
15 because the charging documents did not reference a version of the law he was charged with
16 violating that contained the enacting clause, such is without merit. Neither a Criminal
17 Complaint, an Information, nor an Indictment is required to reference a version of the
18 allegedly violated statute that contains an enacting clause. See NRS 171.102; NRS 173.035;
19 NRS 173.075. Instead, only the facts of the charge must be included, and reference to the
20 NRS version of the laws was sufficient to put Defendant on notice of the offenses charged.
21 See Sanders v. Sheriff, 85 Nev. 179, 181-82, 451 P.2d 718, 720 (1969). Additionally,
22 Rogers does not support Defendant’s claim and only stands for the proposition that the
23 enacting clause must be on the face of the law, not the charging document. Rogers, 1875
24 WL at 7. As Defendant’s claim is without legal support, it must be denied.

25 **III. DEFENDANT IS NOT ENTITLED TO DISCOVERY AT THIS TIME**

26 Rules regarding post-conviction discovery are found in NRS 34.780(2). NRS
27 34.780(2) reads:

28 ///

1 After the writ has been granted and a date set for the hearing, a party
2 may invoke any method of discovery available under the Nevada
3 Rules of Civil Procedure if, and to the extent that, the judge or
4 justice for good cause shown grants leave to do so.

5 Thus, post-conviction discovery is not available until "after the writ has been granted" and
6 good cause is shown. Id. Neither of these statutory requirements has been fulfilled in this
7 case. Therefore, Defendant's Motion for Discovery is premature and must be denied.

8 **IV. DEFENDANT'S MOTION FOR ORDER TO SHOW CAUSE SHOULD BE
9 DENIED**

10 Inasmuch as Defendant again burdens this Court with his contention that the statutes
11 which he was convicted under do not contain the constitutionally required enacting clause,
12 this claim should be denied. Defendant's claim that this Court is without subject matter
13 jurisdiction because the enacting clause is not included in the Nevada Revised Statutes
14 version of the laws he was convicted under has already been considered and rejected by this
15 Court.

16 **CONCLUSION**

17 Based on the foregoing, the State respectfully requests that Defendant's Motions be
18 DENIED.

19 DATED this 23rd day of July, 2013.

20 Respectfully submitted,

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

24 BY /s/ J. TIMOTHY FATTIG

25 J. TIMOTHY FATTIG
26 Chief Deputy District Attorney
27 Nevada Bar #006639
28

Exhibit 5

TO: Nevada Supreme Court Law Library
201 S. Carson St., #100
Carson City, Nev. 89701

FROM: Justin Odell Langford - 1159546
LCC, 1200 Prison Rd.
Lovelock, Nev. 89419

RE: Request For Statute as Printed in Statute Books...

Can You Please send me the following Items as printed in the
statute Books.

- 1) Cr PA 1911, 358
- 2) RL 1912, 36908
- 3) CL 1929, 310705
- 4) 1927, p. 87
- 5) CL 1929, 310707
- 6) Can you please send NRS "171.010" as it is in the statute books, I
don't know its official location or if there was ever a bill
for it to become an NRS after "1957"
- 7) Can you please send NRS "171.020" as it is in the statute books, I
don't know its official location or if there was ever a bill for
it to become an NRS after "1957"


Respectfully Requested

Justin Langford

Exhibit 5a



SUPREME COURT OF NEVADA
LAW LIBRARY
SUPREME COURT BUILDING
201 SOUTH CARSON STREET, SUITE 100
CARSON CITY, NEVADA 89701-4702

TELEPHONE
(775) 684-1640

June 4, 2021

Justin Odell Langford, #1159546
Lovelock Correctional Center
1200 Prison Rd.
Lovelock, NV 89419

Dear Mr. Langford:

Thank you for your correspondence. This information is provided as a courtesy only and is in no way intended to substitute for the advice of a private attorney.

Although we are unable to conduct research for you, we can provide you with materials, if your request is specific enough. We are unable to send books or supplements – only photocopies of materials from the Law Library's collection, up to 10 cases or statutes (or 100 pages) per request. Only requests related to criminal law will be answered. We fulfill requests in the order in which they are received. If your request is urgent, please place it through your institution's law library. We usually process requests received via Inmate Banking within 24 hours of receipt. Please do not send multiple requests for the same materials. Do not send cash, stamps or any object of value. After receiving your request, we will notify you of the estimated cost and, when payment is received, we will process your request. The Nevada Supreme Court Library requires prepayment for photocopies (\$0.10 per page for photocopies) plus postage. Payment should be submitted via check or money order made payable to the Nevada Supreme Court Library.

To ensure a prompt response, please follow these guidelines:

1. Write on a full sheet of paper. Include your complete name, address, and DOC number, and sign all requests.
2. We provide cases and statutes and are unable to give legal advice or provide forms to non-attorneys. Only requests related to criminal law will be answered.
3. Responses may take up to four weeks to receive. If your request is urgent, please place it through your institution's law library. Requests received via NDOC Inmate Banking are usually processed within 24 hours.
4. Make your requests specific and provide citations.

| Examples of specific requests | Examples of vague requests |
|-----------------------------------|-------------------------------------------|
| State v. Smith, 1 P.3d 100 (1988) | Cases on sentencing |
| NRS 200.280 as it was in 1999 | Anything you have on the Fourth Amendment |

We will use the following checklist when responding to your request:

- ☒ We have attached your letter with the items checked off that we are able to provide. The estimated total cost is \$ _____. This includes _____ copies at \$0.10 per page, totaling \$ _____, plus \$ _____ for postage. Please submit payment by check or money order made payable to the Nevada Supreme Court Library. Mail payment to Supreme Court of Nevada Law Library, 201 S. Carson Street, Suite 100, Carson City, NV 89701.

☒ Since your request is for a minimal number of pages, I am sending it to you free of charge this time:

1. The statutes in 1911 were not published in a hard copy. The state did not have the funds to publish in 1911 so all of the statutes were published in the 1912 Revised Laws; there is nothing I can provide for 1911.
2. RL 1912, sec. 6908 - included
3. CL 1929, sec. 10705 and 10707 - included
4. There was nothing published in 1927. do you have a better citation (book title or publisher for this item?)
5. I am sending the language of 171.010 and 171.020 before they were repealed. They were not added to other chapters or sections in the NRS.

- ☐ We have received your payment and have attached your letter with the items checked off with the items we were able to provide. This letter will also serve as your receipt for the amount of \$ _____.
- ☐ You have asked for too many cases or statutes. Please submit an updated request that falls within the limit of ten cases/statutes (or 100 pages).
- ☐ We are unable to process your request. Please give case name, citation and year when requesting a copy of a case. Please give statute name and citation when asking for a statute.
- ☐ The request exceeds "fair use" provisions in copyright law.
- ☐ Your request is beyond the scope of services we offer.
- ☒ Other: _____

We are returning your letter for your records.

Librarian

NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any

purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

LOCAL JURISDICTION OF PUBLIC OFFENSES

NRS 171.010 Jurisdiction of offense committed in State. Every person, whether an inhabitant of this state, or any other state, or of a territory or district of the United States, is liable to punishment by the laws of this state for a public offense committed therein, except where it is by law cognizable exclusively in the courts of the United States.

[1911 Cr. Prac. § 58; RL § 6908; NCL § 10705]

NEVADA CASES.

Venue is material allegation and must be proved; use of circumstantial evidence. Venue in a criminal case is material allegation and must be proved, and proof may be made by the use of circumstantial evidence. *People v. Gleason*, 1 Nev. 173 (1865)

Statutes considered together show legislative intent that incarceration of convicted murderer upon life sentence does not preclude trial under indictment for another murder. RL § 6908 (cf. NRS 171.010), making every person who commits a crime liable to punishment, RL § 6921 (cf. NRS 171.080), permitting prosecution for a murder to be commenced at any time after the death of the victim, and RL § 7459 (cf. NRS 174.325), authorizing an order directing a person in prison brought before a court of criminal jurisdiction when it is necessary for any purpose, disclose legislative intent that incarceration of the convicted murderer upon a life sentence does not preclude his trial under indictment for another murder. *In re Transner*, 35 Nev. 56, 126 Pac. 337 (1912)

Venue may be established by circumstantial evidence. Where, in a prosecution for the attempted grand larceny of a store, the manager of the store where the larceny was attempted testified he lived in the county and managed a store in a city located in the county, employees testified as to the address of the store and the defendant testified that he knew that the incident in which he was involved occurred in a certain store, there was sufficient circumstantial evidence to establish venue in the county of trial although no specific mention of the county was made at trial. (See NRS 171.010.) *Dixon v. State*, 83 Nev. 120, 424 P.2d 100 (1967), cited, *Majarian v. Sheriff, Clark County*, 87 Nev. 495, at 496, 489 P.2d 405 (1971), *Hyler v. Sheriff, Clark County*, 93 Nev. 561, at 564, 571 P.2d 114 (1977), *James v. State*, 105 Nev. 873, at 875, 784 P.2d 965 (1989)

Statute does not exclude prosecution of foreign national. The fact that NRS 171.010, relating to the jurisdiction of offenses committed in the state, mentioned the inhabitants of the United States but did not specifically refer to the inhabitants of foreign countries would not be construed to exclude prosecution of a foreign national who committed a crime while traveling through Nevada. *Paulette v. State*, 92 Nev. 71, 545 P.2d 205 (1976), cited, *Therian v. State*, 92 Nev. 185, at 189, 547 P.2d 668 (1976), *Johnstone v. State*, 92 Nev. 241, at 242, 548 P.2d 1362 (1976), *Johnstone v. State*, 93 Nev. 427, at 428, 566 P.2d 1130 (1977)

Jurisdiction over crimes committed on land owned by Federal Government. Where an incident for which the defendant was accused of felony driving while intoxicated (see former NRS 484.379; cf. NRS 484C.110), occurred on land owned by the Federal Government, the courts of this State had jurisdiction to try the case because NRS 171.010 gives district court jurisdiction over crimes committed in a county except where the United States has exclusive jurisdiction, the Nevada Admission Acts revealed no retention of jurisdiction by the United States over the land in question, there was no affirmative cessation of jurisdiction by Nevada and affirmative acceptance by the United States and NRS 328.110 requires recording in the office of the county recorder to effectuate cessation of jurisdiction. *Pendleton v. State*, 103 Nev. 95, 734 P.2c 693 (1987)

Where dispute concerned which court had jurisdiction over defendant, district court erred in directing dismissal of matter. As a general rule, except for criminal offenses cognizable exclusively in federal court, some court always has jurisdiction over a criminal defendant. (See NRS 171.010.) Thus, where felony charges were awaiting a preliminary examination in justice court and the justice court had rejected the defendant's contention that the juvenile court had jurisdiction, the district court erred in granting a writ of mandamus directing the justice court to dismiss the matter for lack of jurisdiction. (See NRS 34.160.) The issue was not whether any court had jurisdiction over the defendant if he were held to answer for the charges, but which court had jurisdiction. *State v. Barrea*, 128 Nev. 337, 279 P.3d 182 (2012)

ATTORNEY GENERAL'S OPINIONS.

Nevada court not deprived of jurisdiction where arresting officer takes defendant temporarily across state line. A Nevada court was not deprived of criminal jurisdiction where an officer, in making an arrest in Nevada, takes the defendant temporarily across the state line while en route to the nearest Nevada magistrate. AGO 52 (4-28-1955)

NRS 171.015 Jurisdiction of offense commenced without, but consummated within, this State; consummation through agent. When the commission of a public offense, commenced without the State, is consummated within its boundaries, the defendant is liable to punishment therefor in this State, though the defendant was out of the State at the time of the commission of the

CHAPTER 7

OF THE LOCAL JURISDICTION OF PUBLIC OFFENSES.

- § 10705. Offenses committed in state, jurisdiction of.
- § 10706. Offenses commenced without, but concluded within state, jurisdiction of.
- § 10707. Intent to commit crime; jurisdiction.
- § 10708. Death by dueling, jurisdiction.
- § 10709. Offense partly in one county, partly in another, jurisdiction.
- § 10710. Offense committed on or near boundary, jurisdiction.
- § 10711. Offense committed on vessels and cars within state, jurisdiction.
- § 10712. Offenses concerning animals ranging in two or more counties, jurisdiction.
- § 10713. Kidnaping and abduction, jurisdiction.
- § 10714. Bigamy and incest, jurisdiction.
- § 10715. Property stolen and moved to another county.—Jurisdiction.
- § 10716. Accessory, jurisdiction of.
- § 10717. Conviction or acquittal in another state, bar.
- § 10718. Conviction in another county, bar.

§ 10705. OFFENSES COMMITTED IN STATE, JURISDICTION OF.

§ 58. Every person, whether an inhabitant of this state, or any other state, or of a territory or district of the United States, is liable to punishment by the laws of this state for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States.

California Penal Code, § 777.

A court's jurisdiction in criminal cases extends only to acts which the law declares to be criminal.—*Ex parte Rickey*, 31 Nev. 83, 135 Am. St. Rep. 651, 100 Pac. 134. See *State v. Muck*, 23 Nev. 359, 62 Am. St. Rep. 511, 47 Pac. 763; *State v. Beckaron Jack*, 30 Nev. 325, 96 Pac. 497.

Under this section, and §§ 10719, post, and 11256, post, one sentenced to life imprisonment for murder may be tried pending his incarceration for a murder previously committed, and, in the event of his conviction thereof and sentenced to death, the sentence may be carried into execution, notwithstanding

standing § 11054, post, providing that, where defendant has been convicted of two or more offenses before judgment on either, the judgment may be that the imprisonment on any one may commence at the expiration of the imprisonment on any other.—*Ex parte Trammor*, 35 Nev. 56, 68, 41 L. R. A. (N.S.) 1095, 126 Pac. 337.

As to mail or telegraph, where offense of obtaining money by fraud through use of, is deemed to be committed, see note, 43 A. L. R. 545.

Cited: *Essex County Bank Habeas Corpus Cases*, 35 Nev. 107, 126 Pac. 635, 129 Pac. 303.

§ 10706. OFFENSE COMMENCED WITHOUT, BUT CONCLUDED WITHIN STATE, JURISDICTION OF. § 59. When the commission of a public offense, commenced without the state, is consummated within its boundaries, the defendant is liable to punishment therefor in this state, though he was out of the state at the time of the commission of the offense charged. If he consummated it in this state, through the intervention of an innocent or guilty agent, or any other means proceeding directly from himself, in such case the jurisdiction is [in] the county in which the offense is consummated.

California Penal Code, § 773.

§ 10707. INTENT TO COMMIT CRIME; JURISDICTION. § 59a. Whenever a person, with intent to commit a crime, does any act within this state in execution or part execution of such intent, which culminates in the commis-

sion of a crime, either within or without this state, such person is punishable for such crime in this state in the same manner as if the same had been committed entirely within this state. *Added, Stats. 1937, 87.*

California Penal Code, § 778a.

§ 10708. DEATH BY DUELING, JURISDICTION. § 60. When an inhabitant or resident of this state, by previous appointment or engagement, fights a duel or is concerned as second therein, out of the jurisdiction of this state, and in the duel a wound is inflicted upon a person, whereof he dies in this state, the jurisdiction of the offense is in the county where the death happens.

California Penal Code, § 779.

§ 10709. OFFENSE PARTLY IN ONE COUNTY, PARTLY IN ANOTHER, JURISDICTION. § 61. When a public offense is committed in part in one county and in part in another or the acts or effects thereof constituting or requisite to the consummation of the offense occur in two or more counties, the jurisdiction is in either county.

California Penal Code, § 781.

Stolen goods were purchased, paid for, and received in E. County, and were thereafter shipped by him to C. County. It was held that C. County had no jurisdiction of the offense, since the offense of receiving stolen goods is consummated when the goods are received with the unlawful intent specified in the statute, and the subsequent transportation of the goods into another county to

reap the fruits of the crime is not an act essential to its consummation, and if the effect of the transportation of the goods to C. County constituted the intent to deprive the owner of the property, the act of receiving was not accompanied by the wrongful intent necessary to constitute the crime. —*State v. Pray*, 30 Nev. 207, 223, 224, 94 Pac. 218.

§ 10710. OFFENSE COMMITTED ON OR NEAR BOUNDARY, JURISDICTION. § 62. When an offense is committed on the boundary of two or more counties, or within five hundred yards thereof, the jurisdiction is in either county.

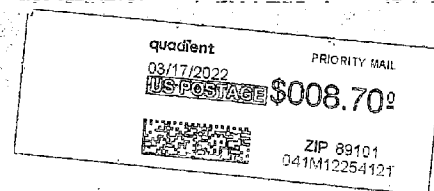
California Penal Code, § 782.

§ 10711. OFFENSE COMMITTED ON VESSELS AND CARS WITHIN STATE, JURISDICTION. § 63. When an offense is committed in this state, on board a vessel navigating a river, slough, lake, or canal, or lying therein, in the prosecution of her voyage, the jurisdiction is in any county through which the vessel is navigated in the course of her voyage, or in the county where the voyage terminates; and when the offense is committed in this state, on a railroad train, car, stage or other public conveyance, prosecuting its trip, the jurisdiction is in any county through which the train, car, stage or other public conveyance passes in the course of its trip, or in the county where the trip terminates.

California Penal Code, § 783.

§ 10712. OFFENSES CONCERNING ANIMALS RANGING IN TWO OR MORE COUNTIES, JURISDICTION. § 64. When a public offense concerns any neat cattle, horse, mule or other animal running at large upon any range

Bryan P Bonham 60595
PO Box 650 (HDSP)
Indian Springs, NEV 894070



Reginal Justice center
clerk of court
200 Lewis Ave 3rd Floor
Las Vegas, Nev 89155



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DISTRICT COURT
CLARK COUNTY, NEVADA

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Steven D. Grierson
CLERK OF THE COURT



Bryan Bonham, Plaintiff(s)
vs.
Calvin Johnson, Warden (HDSP),
Defendant(s)

Case No.: A-21-844910-W

Department 6

NOTICE OF HEARING

Please be advised that the Plaintiff/Defendant's Reply to State's Opposition to His Habeas Corpus Motion to Correct Illegal Sentence in the above-entitled matter is set for hearing as follows:

Date: May 03, 2022

Time: 9:30 AM

Location: RJC Courtroom 10C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

18th IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN PHILLIP BONHAM,
Appellant,
vs.
CALVIN JOHNSON, WARDEN (HDSP),
Respondent.

Supreme Court No. 84361
District Court Case No. A844910; ~~C307298~~

FILED

SEP 13 2022

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 18th day of August, 2022.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
September 12, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Amanda Ingersoll
Deputy Clerk

A-21-844910-W
CCJA
NV Supreme Court Clerks Certificate/Judgm
5005865



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRYAN PHILLIP BONHAM,
Appellant,
vs.
CALVIN JOHNSON, WARDEN (HDSP),
Respondent.

No. 84361-COA

FILED

AUG 18 2022

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

ORDER OF AFFIRMANCE

Bryan Phillip Bonham appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Bonham claims the district court erred by denying his petition without first conducting an evidentiary hearing. Bonham filed his petition on December 3, 2021,¹ more than six years after entry of the judgment of conviction on October 22, 2015.² Thus, Bonham's petition was untimely filed. *See* NRS 34.726(1). Bonham's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.* To warrant an evidentiary hearing, a petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

¹Bonham's pleading was entitled "petition for writ of habeas corpus pursuant to all writs act 28 U.S.C. § 1651." The district court construed it as a postconviction petition for a writ of habeas corpus, and Bonham does not challenge that decision on appeal.

²Bonham did not pursue a direct appeal.

Bonham appeared to assert that the procedural time bar did not apply to his petition because he challenged the trial court's subject matter jurisdiction. Bonham contended that subject matter jurisdiction may be challenged at any time.

In particular, Bonham contended that the trial court was without jurisdiction to convict him because the laws reproduced in the Nevada Revised Statutes do not contain enacting clauses as required by the Nevada Constitution, the statute authorizing creation of the Nevada Revised Statutes improperly contained more than one subject, the bill authorizing creation of the Nevada Revised Statutes was not properly introduced or considered by the Legislature and Governor, the commission that made recommendations regarding the creation of the Nevada Revised Statutes during the 1950s was not lawful, and justices of the Nevada Supreme Court unconstitutionally participated in the creation of the Nevada Revised Statutes in violation of separation of powers principles. Bonham also contended the trial court lacked subject matter jurisdiction over this matter because he was not indicted by a grand jury and the laws referenced in the complaint and information did not contain titles.

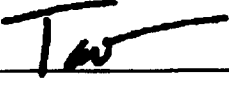
These claims did not implicate the jurisdiction of the courts, and therefore, the procedural time bar applied to Bonham's petition. *See Nev. Const. art. 6, § 6; Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). Moreover, we note the Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes simply reproduce those laws as classified, codified, and annotated by the Legislative Counsel. *See* NRS 220.110; NRS 220.120. Finally,

Bonham's challenges to the Nevada Revised Statutes were reasonably available to be raised in a timely petition, and he did not demonstrate an impediment external to the defense prevented him from doing so. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Therefore, the district court did not err by denying the petition as procedurally barred without first conducting an evidentiary hearing.

Next, Bonham claimed that the Secretary of State's office improperly failed to retain records concerning the Legislature's creation of the Nevada Revised Statutes. Bonham also appeared to contend that an employee of the Clark County District Attorney's Office violated separation of powers principles by participating in a legislative committee. However, these claims were not properly raised in Bonham's postconviction petition for a writ of habeas corpus. See NRS 34.720(1); NRS 34.810(1)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Bryan Phillip Bonham
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN PHILLIP BONHAM,
Appellant,
vs.
CALVIN JOHNSON, WARDEN (HDSP),
Respondent.

Supreme Court No. 84361
District Court Case No. A844910;C307298

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: September 12, 2022

Elizabeth A. Brown, Clerk of Court

By: Amanda Ingersoll
Deputy Clerk

cc (without enclosures):
Hon. Jacqueline M. Bluth, District Judge
Bryan Phillip Bonham
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 SEP 13 2022.

HEATHER UNGERMANN

Deputy District Court Clerk

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APPEALS
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CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

February 17, 2022

| | |
|---------------|---------------------------------------------|
| A-21-844910-W | Bryan Bonham, Plaintiff(s) |
| | vs. |
| | Calvin Johnson, Warden (HDSP), Defendant(s) |

February 17, 2022 11:00 AM All Pending Motions

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kristen Brown

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR DISCOVERY AND MOTION FOR ORDER TO SHOW CAUSE

COURT ORDERED, Petitioner's Writ of Habeas Corpus is DENIED. Petitioner's claims are procedurally barred. Petitioner's Judgment of Conviction was filed on October 15, 2015. Thus, the present petition is untimely by more than five years. Moreover, Petitioner has not shown that impediment external to his defense prevented him from filing his Petition in a timely manner or that his claims were not available at the time of default. And, Petitioner does not allege good cause or prejudice for the untimely filing

Alternatively, Petitioner pleaded guilty pursuant to Alford and none of Petitioner's claims are based on an allegation that the plea was entered involuntarily or unknowingly or that the plea was entered without effective assistance of counsel. Thus, Petitioner's claims are outside the scope of a habeas Petition.

COURT FURTHER ORDERED, Petitioner's Motion for Discovery is DENIED. NRS 34.780(2) reads:

PRINT DATE: 01/05/2023

Page 1 of 3

Minutes Date: February 17, 2022

After the writ has been granted and a date set for the hearing, a party may invoke any method of discovery available under the Nevada Rules of Civil Procedure if, and to the extent that, the judge or justice for good cause shown grants leave to do so. A writ is not "granted" for discovery purposes until this Court determines that there is a need for an evidentiary hearing. NRS 34.770(3). Petitioner's request to conduct discovery is therefore premature.

NDC

CLERK'S NOTE: A copy of this minute order was electronically mailed to: John Afshar, Deputy District Attorney and a copy was mailed to the Petitioner.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 12, 2022

| | |
|---------------|---------------------------------------------|
| A-21-844910-W | Bryan Bonham, Plaintiff(s) |
| | vs. |
| | Calvin Johnson, Warden (HDSP), Defendant(s) |

May 12, 2022 9:30 AM Hearing

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kristen Brown

RECORDER: De'Awna Takas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter OFF CALENDAR as it was already decided.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated January 4, 2023, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises two volumes with pages numbered 1 through 286.

BRYAN P. BONHAM ,

Plaintiff(s),

vs.

CALVIN JOHNSON WARDEN (HDSP),

Defendant(s),

Case No: A-21-844910-W

Dept. No: III

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 5 day of January 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk