



**EIGHTH JUDICIAL DISTRICT COURT
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Elizabeth A. Brown
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January 18, 2023

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: JOSEPH N. WARREN, III vs. WARDEN NUJERA

S.C. CASE: 85892

D.C. CASE: A-22-858403-W

Dear Ms. Brown:

Pursuant to your Order Directing Entry and Transmission of Written Order, dated January 6, 2023, enclosed is a certified copy of the Findings of Fact, Conclusions of Law and Order filed January 17, 2023 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk

Heather S. Hume
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
Chief Deputy District Attorney
Nevada Bar #014408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JOSEPH NAPOLEAN WARREN, III.,
#982861

Defendant.

CASE NO: A-22-858403-W
DEPT NO: C-21-356232-1
XXI

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: NOVEMBER 17, 2022
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable TARA CLARK-NEWBERRY, District Judge, on the 17th day of November, 2022, the Petitioner not being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through SKYLER L. SULLIVAN, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On May 25, 2021, State filed an Information charging Joseph N Warren, III (hereinafter "Petitioner") with Count 1-Residential Burglary while in Possession of a Deadly Weapon;

1 Count 2-Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm, Victim
2 60 Years of Age or Older; Count 3-Attempt Murder with Use of a Deadly Weapon, Victim 60
3 Years of Age or Older; and, Count 4-Attempt Robbery with Use of a Deadly Weapon, Victim
4 60 Years of Age or Older.

5 On August 26, 2021, Petitioner entered a guilty plea to Attempt Battery with Substantial
6 Bodily Harm (Category D Felony/Gross Misdemeanor). Pursuant to a Guilty Plea Agreement,
7 State and Petitioner stipulated to a Gross Misdemeanor treatment, credit for time served, and
8 dismissal of all remaining counts. On September 20, 2021, the Judgment of Conviction was
9 filed, adjudicating Petitioner guilty under the Gross Misdemeanor statute, and sentencing him
10 to credit for time served.

11 On September 15, 2022, Petitioner filed the instant Petition For Writ Of Habeas Corpus
12 (Post-Conviction) (hereinafter "Petition"). The State's Response was filed on October 20,
13 2022. This Court denied the Petition on November 17, 2022.

14 ARGUMENT

15 This Petition is denied because Petitioner had already completed the sentence imposed
16 in this case. The ability to file a petition for post-conviction relief is authorized by NRS
17 Chapter 34. NRS 34.360 provides, "[e]very person unlawfully committed, detained, confined
18 or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas
19 corpus to inquire into the cause of such imprisonment or restraint." Further, NRS 34.724(1)
20 plainly states that a person "convicted of a crime and under sentence of death or imprisonment"
21 may file a post-conviction petition for writ of habeas corpus to challenge the conviction, the
22 sentence, or the computation of time served. The Nevada Constitution also provides, "[t]he
23 District Courts and the Judges thereof shall also have power to issue writs of Habeas Corpus
24 on petition by, or on behalf of any person who is held in actual custody in their respective
25 districts, or who has suffered a criminal conviction in their respective districts and has not
26 completed the sentence imposed pursuant to the judgment of conviction." Nev. Const. art. 6 §
27 6(1) (emphasis added).

28 //

1 The Nevada Supreme Court has held that "a post-conviction petition for a writ of habeas
2 corpus cannot be filed by a petitioner who is no longer under a sentence of death or
3 imprisonment for the conviction at issue." Coleman v. State, 130 Nev. 190, 193, 321 P.3d 863,
4 865-866 (2014); see NRS 34.724(1); see also Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241,
5 242 (1999) (concluding that a petitioner was not entitled to file a post-conviction petition for
6 a writ of habeas corpus when he was no longer incarcerated pursuant to the judgment of
7 conviction contested).

8 Here, Petitioner cannot file a post-conviction petition for a writ of habeas corpus
9 because he is no longer under a sentence of imprisonment under this case. Petitioner entered a
10 guilty plea and was sentenced on August 26, 2021, to credit for time served. This imposed
11 sentence clearly expired well before this Petition was filed on September 15, 2022.

12 Accordingly, Petitioner was not eligible to file a post-conviction petition for a writ of
13 habeas corpus because his sentence was already expired in this case. Thus, this Petition is
14 denied.

15 **ORDER**

16 THEREFORE, IT IS HEREBY ORDERED that this Petition for Writ of Habeas (Post-
17 Conviction), shall be, and is, hereby DENIED.

18 DATED this ____ day of January, 2023.

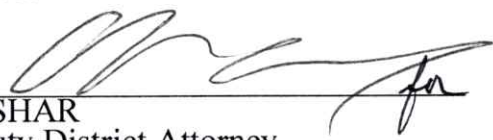
Dated this 17th day of January, 2023

19 
20 DISTRICT JUDGE

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

449 E96 0AA3 0B5A
Tara Clark Newberry
District Court Judge

23 BY


24 JOHN AFSHAR
25 Chief Deputy District Attorney
Nevada Bar #014408

January 18, 2023



CERTIFIED COPY
ELECTRONIC SEAL (NRS 1.190(3))

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Joseph Warren, III, Plaintiff(s)

CASE NO: A-22-858403-W

7 vs.

DEPT. NO. Department 21

8 Warden Nujera, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Finding of Fact and Conclusions of Law was served via the court's
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as
listed below:

14 Service Date: 1/17/2023

15 Steven Wolfson

motions@clarkcountyda.com