

FILED

2023 FEB 22 AM 11:08

1 Case No. CV-HC-18-194

2 Dept. No. 3

3 This document does not contain the social security number of any person.

4th JUDICIAL DISTRICT COURT
CLERK
Electronically Filed
Feb 24 2023 09:59 AM

Elizabeth A. Brown
Clerk of Supreme Court

5 IN THE FOURTH JUDICIAL DISTRICT COURT
6 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

7
8 DANIEL CHARLES COOKE,

9 Petitioner,

10 vs.

NOTICE OF APPEAL

11 RENEE BAKER [now TIM GARRETT],

12 Warden of Lovelock Correctional Center,

13 and CHARLES DANIELS, Director of

14 Nevada Department of Corrections.

15
16 TO: The Elko County District Attorney's Office.

17 NOTICE is hereby given that Petitioner DANIEL CHARLES COOKE hereby
18 appeals to the Supreme Court of Nevada from the ORDER DENYING PETITION
19 FOR POST CONVICTION RELIEF entered in this action on January 31, 2023.
20

21 This appeal is to all issues of law and fact.

22 DATED this 21st day of February, 2023.

23 BEN GAUMOND LAW FIRM, PLLC

24
25 By: 

26 BENJAMIN C. GAUMOND, ESQ.

27 Nevada Bar Number 8081

28 495 Idaho Street, Suite 209

29 Elko, Nevada 89801

(775)388-4875 (phone)

(800)466-6550 (facsimile)

1 CERTIFICATE OF SERVICE

2
3 I hereby certify that I am the owner/founder of the Ben Gaumond Law Firm,
4 PLLC. On the 22nd day of February, 2023, I served the foregoing NOTICE OF
5 APPEAL by serving a copy of said document to the following:

6
7 Elko County District Attorney's Office
8 540 Court Street, Second Floor
9 Elko, NV 89801
10 (personally served)

11
12 Honorable Mason Simons
13 District Court Judge, Department #3
14 571 Idaho Street
15 Elko, NV 89801
16 (personally served to chambers)

17
18 Nevada Attorney General's Office
19 100 North Carson Street
20 Carson City, NV 89701
21 (sent in U.S. Mail first class with postage prepaid)

22
23 Daniel Charles Cooke
24 Inmate, Elko County Jail
25 775 W. Silver Street
26 Elko, NV 89801
27 (sent via interoffice mail)

28
29 Tim Garrett, Warden
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
(sent in U.S. Mail first class with postage prepaid)

30
31 
Benjamin C. Gaumond, Esq.

FILED

Case No. CV-HC-18-194

Dept. No. 3

2023 FEB 22 AM 11:08

This document does not include the social security number of any person.

4th JUDICIAL DISTRICT COURT
CLERK DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

DANIEL CHARLES COOKE,

Petitioner,

vs.

RENEE BAKER [now TIM GARRETT],

Warden of Lovelock Correctional Center,

and CHARLES DANIELS, Director of
Nevada Department of Corrections,

Respondents.

CASE APPEAL STATEMENT

1. Name of appellant filing case appeal statement: The name of the Appellant is Daniel Charles Cooke.

2. Identify the judge issuing the decision, judgment, or order appealed from: The judge who issued the ORDER DENYING PETITION FOR POST CONVICTION RELIEF was the Honorable Mason Simons, District Court Judge, Fourth Judicial District Court, Department #3.

3. Identify of each appellant and the name and address of counsel for each appellant. The sole appellant in this case is Daniel Charles Cooke. Appellant Daniel Charles Cooke's legal counsel is Benjamin C. Gaumond, Ben Gaumond Law Firm, PLLC, 495 Idaho Street, Suite 209, Elko, NV 89801.

1 4. **Identify each respondent and the name and address of**
2 **appellate counsel, if known, for each respondent.** The respondents in this case
3 are Renee Baker, Tim Garrett, and Charles Daniels. Counsel for Respondents are
4 Chad Thompson and Aaron Ford. The address for Chad Thompson is 540 Court
5 Street, Second Floor, Elko, NV 89801. The address for Aaron Ford is 100 North
6 Carson Street, Carson City, NV 89701.
7

8
9 5. **Indicate whether any attorney identified above in response to**
10 **questions 3 or 4 is not licensed to practice law in the State of Nevada:** All
11 aforementioned counsel are licensed to practice law in the State of Nevada.
12

13 6. **Indicate whether appellant was represented by appointed or**
14 **retained counsel in the district court:** Undersigned counsel was appointed to
15 represent Appellant Daniel Charles Cooke in the district court.
16

17 7. **Indicate whether appellant was represented by appointed or**
18 **retained counsel on appeal:** Undersigned appointed defense counsel continues to
19 represent Appellant Daniel Charles Cooke on appeal.
20

21 8. **Indicate whether appellant was granted leave to proceed in**
22 **forma pauperis, and the date of entry of the district court order granting**
23 **such leave:** Such leave has not been granted as of the filing of this case appeal
24 statement.
25

26 9. **Indicate the date the proceedings commenced in the district**
27 **court:** April 9, 2018 was the date that the PETITION FOR WRIT OF HABEAS
28 CORPUS (POST-CONVICTION) was filed in the district court.
29

1 **10. Provide a brief description of the nature of the action and**
2 **result in the district court, including the type of judgment or order being**
3 **appealed and the relief granted by the district court:** Appellant Daniel
4 Charles Cooke appeals from the ORDER DENYING PETITION FOR POST
5 CONVICTION RELIEF that was filed on January 31, 2023.
6

7 **11. Indicate whether the case has previously been the subject of an**
8 **appeal or original writ proceeding in the Supreme Court and, if so, the**
9 **caption and Supreme Court docket number of the original proceeding:** This
10 case has been the subject of an appeal in case number 83578 in the Nevada Supreme
11 Court as well as case number 83578-COA in the Nevada Court of Appeals.
12

13 **12. Indicate whether this appeal involves child custody or**
14 **visitation:** This appeal does not involve child custody. This appeal does not involve
15 visitation.
16

17 **13. If this is a civil case, indicate whether this appeal involves the**
18 **possibility of settlement:** This case does not involve the possibility of settlement.
19

20 DATED this 21st day of February, 2023.
21

22 BEN GAUMOND LAW FIRM, PLLC

23 By: 

24 BENJAMIN C. GAUMOND, ESQ.
25 Nevada Bar Number 8081
26 495 Idaho Street, Suite 209
27 Elko, Nevada 89801
28 (775)388-4875 (phone)
29 (800)466-6550 (facsimile)

///

1 CERTIFICATE OF SERVICE

2
3 I hereby certify that I am the owner/founder of the Ben Gaumond Law Firm,
4 PLLC. On the 22nd day of February, 2023, I served the foregoing CASE APPEAL
5 STATEMENT by serving a copy of said document to the following:
6

7 Elko County District Attorney's Office
8 540 Court Street, Second Floor
9 Elko, NV 89801
10 (personally served)

11 Honorable Mason Simons
12 District Court Judge, Department #3
13 571 Idaho Street
14 Elko, NV 89801
15 (personally served to chambers)

16 Nevada Attorney General's Office
17 100 North Carson Street
18 Carson City, NV 89701
19 (sent in U.S. Mail first class with postage prepaid)

20 Daniel Charles Cooke
21 Inmate, Elko County Jail
22 775 W. Silver Street
23 Elko, NV 89801
24 (sent via interoffice mail)

25 Tim Garrett, Warden
26 Lovelock Correctional Center
27 1200 Prison Road
28 Lovelock, NV 89419
29 (sent in U.S. Mail first class with postage prepaid)

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1460
1461
1462
1463
1464
1465
1466
1467
1468
1469
1470
1471
1472
1473
1474
1475
1476
1477
1478
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1489
1490
1491
1492
1493
1494
1495
1496
1497
1498
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1580
1581
1582
1583
1584
1585
1586
1587
1588
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1730
1731
1732
1733
1734
1735
1736
1737
1738
1739
1740
1741
1742
1743
1744
1745
1746
1747
1748
1749
1750
1751
1752
1753
1754
1755
1756
1757
1758
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1799
1800
1801
1802
1803
1804
1805
1806
1807
1808
1809
1810
1811
1812
1813
1814
1815
1816
1817
1818
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828
1829
1830
1831
1832
1833
1834
1835
1836
1837
1838
1839
1840
1841
1842
1843
1844
1845
1846
1847
1848
1849
1850
1851
1852
1853
1854
1855
1856
1857
1858
1859
1860
1861
1862
1863
1864
1865
1866
1867
1868
1869
1870
1871
1872
1873
1874
1875
1876
1877
1878
1879
1880
1881
1882
1883
1884
1885
1886
1887
1888
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
1904
1905
1906
1907
1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
2025
2026
2027
2028
2029
2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2060
2061
2062
2063
2064
2065
2066
2067
2068
2069
2070
2071
2072
2073
2074
2075
2076
2077
2078
2079
2080
2081
2082
2083
2084
2085
2086
2087
2088
2089
2090
2091
2092
2093
2094
2095
2096
2097
2098
2099
2100
2101
2102
2103
2104
2105
2106
2107
2108
2109
2110
2111
2112
2113
2114
2115
2116
2117
2118
2119
2120
2121
2122
2123
2124
2125
2126
2127
2128
2129
2130
2131
2132
2133
2134
2135
2136
2137
2138
2139
2140
2141
2142
2143
2144
2145
2146
2147
2148
2149
2150
2151
2152
2153
2154
2155
2156
2157
2158
2159
2160
2161
2162
2163
2164
2165
2166
2167
2

FILED

2023 FEB 22 AM 11:08

4th JUDICIAL DISTRICT COURT
CLERK DEPUTY

Case No. CV-HC-18-194

Dept. No. 3

This document does not include the social security number of any person.

IN THE FOURTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

DANIEL CHARLES COOKE,

Petitioner,

vs.

RENEE BAKER [now TIM
GARRETT],

Warden of Lovelock Correctional
Center, and

CHARLES DANIELS, Director of
Nevada Department of
Corrections,

Respondents.

REQUEST FOR VERBATIM
TRANSCRIPT

TO: Julie Rowan, Court Transcriber.

DANIEL CHARLES COOKE, the Petitioner above-named, requests preparation of a verbatim transcript of a certain portion of the proceedings before the district court as follows:

(1) Date of the proceedings: December 19, 2022

Transcript requested: Complete evidentiary hearing on Petition for Writ of Habeas Corpus (Post Conviction)

Copies Requested: Two (2)

Judge: The Honorable Mason Simons

1 This notice requests a transcript of only those portions of the district
2 court proceedings that counsel for Petitioner reasonably and in good faith
3 believes are necessary to determine whether appellate issues are present.

4
5 DATED this 21st day of February, 2023.

6 BEN GAUMOND LAW FIRM, PLLC

7
8 By: 

9 BENJAMIN C. GAUMOND, ESQ.
10 Nevada Bar Number 8081
11 495 Idaho Street, Suite 209
12 Elko, Nevada 89801
(775)388-4875 (phone)
(800)466-6550 (facsimile)

13 CERTIFICATE OF SERVICE

14
15 I hereby certify that I am the owner/founder of the Ben Gaumond Law
16 Firm, PLLC. On the 22nd day of February, 2023, I served the foregoing
17 REQUEST FOR VERBATIM TRANSCRIPT by serving a copy of said document
18 to the following:
19

20 Elko County District Attorney's Office
21 540 Court Street, Second Floor
22 Elko, NV 89801
(personally served)

23 Honorable Mason Simons
24 District Court Judge, Department #3
25 571 Idaho Street
Elko, NV 89801
(personally served to chambers)

26 Nevada Attorney General's Office
27 100 North Carson Street
28 Carson City, NV 89701
29 (sent in U.S. Mail first class with postage prepaid)

1 Daniel Charles Cooke
2 Inmate, Elko County Jail
3 775 W. Silver Street
4 Elko, NV 89801
5 (sent via interoffice mail)

6 Tim Garrett, Warden
7 Lovelock Correctional Center
8 1200 Prison Road
9 Lovelock, NV 89419
10 (sent in U.S. Mail first class with postage prepaid)

11 Julie Rowan, Court Transcriber
12 3827 South Carson Street
13 #48
14 Carson City, NV 89701-5538

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Benjamin C. Gaumond, Esq.

Case Summary

ECDC-CVHC-18-194 - COOKE, DANIEL C VS. BAKER - WARDEN, RENEE

Court: ECDC-CVHC-18-194

Agency: Elko County Clerk's Office

Type: Civil

CaselD: 18-764

Received Date: 4/9/2018

Status: Reclosed

Status Date: 1/31/2023

Age: 1781 days Active Age: 1781 days

Involvements

PORTER, NANCY Judge, Inactive -
SIMONS, MASON Judge -
COOKE, DANIEL Petitioner -
BAKER - WARDEN, RENEE Respondent -
IN PROPER PERSON, Defense Attorney -
THOMPSON, CHAD Prosecution Attorney -
BEN GAUMOND LAW FIRM PLLC, Attorney - COOKE, DANIEL
CHARLES
HILL, KRISTON Judge, Inactive -

Related Name(s)

RENEE BAKER - WARDEN
ELY STATE PRISON is On Behalf Of
DANIEL CHARLES COOKE
is Also Known As of DANIEL CHARLES COOK

Name Attributes

For: RENEE BAKER - WARDEN
Name Record Source - Name Record Converted
from JALAN - Court
For: DANIEL CHARLES COOKE
Name Record Source - Name Record Converted
from JALAN - Court

Case History

Date	Event Type Desc	Status
	Closed - Case Status	
	ORDER DENYING POST-CONVICTION RELIEF	
	Reopened - Case Status	
	CERTIFIED ORDER AFFIRMING IN PART REVERSING IN PART AND REMANDING (SUPREME COURT) FILED	
Hearing - Event	For: 12/19/2022 8:30 AM	Hearing Held

Case Summary

Reclosed - Case Status

ORDER DENYING PETITION FOR POST CONVICTION RELIEF FILED

4/9/2018	PETITION FOR WRIT OF HABEAS CORPUS - POST CONVICTION - Document
4/9/2018	MOTION FOR APPOINTMENT OF COUNSEL - Document
4/9/2018	CERTIFICATE OF INMATE'S INSTITUTIONAL ACCOUNT - Document
4/9/2018	APPLICATION TO PROCEED IN FORMA PAUPERIS - Document
4/9/2018	Proceedings (Converted) - Event Event Type Code: F17 Event Type Description: FILE OPENED - DC
4/9/2018	Proceedings (Converted) - Event Event Type Code: J25 Event Type Description: JUDGE ASSIGNED Note: RELATED CASE: CR-FP-16-7293
4/9/2018	Proceedings (Converted) - Event Event Type Code: P33 Event Type Description: PET - WRIT OF HC Note: COPY TO MR. COOKE
4/9/2018	Proceedings (Converted) - Event Event Type Code: A81 Event Type Description: APPL IN FORMA PAUPRS Note: APPLICATION TO PROCEED IN FORMA PAUPERIS
4/9/2018	Proceedings (Converted) - Event Event Type Code: C06 Event Type Description: CERTIFICATE OF Note: INMATE'S INSTITUTIONAL ACCOUNT
4/9/2018	Proceedings (Converted) - Event Event Type Code: M10 Event Type Description: MOTION Note: FOR APPOINTMENT OF COUNSEL
4/9/2018	Proceedings (Converted) - Event

Case Summary

Event Type Code: C35
Event Type Description: COPIES PREPARED FOR
Note: THE WHOLE FILE TO THE DISTRICT ATTORNEY'S OFFICE AND ALSO TO MR. COOKE

4/9/2018 Proceedings (Converted) - Event
Event Type Code: F15
Event Type Description: FILE CHECKED OUT BY:
Note: DC I for review/signature

6/1/2018 MOTION TO COMPEL COUNTY COURT
CLERK TO SEND BACK TO PETITIONER
STAMPED, DATED COPY'S BACK TO
PETITIONER - Document
AND ALL MOTION PLEADINGS AND CORRESPONDENCE

6/1/2018 Proceedings (Converted) - Event
Event Type Code: F16
Event Type Description: FILE CHECKED IN BY:

6/1/2018 Proceedings (Converted) - Event
Event Type Code: L01
Event Type Description: LETTER FROM
Note: DANIEL CHARLES COOKE

6/1/2018 Proceedings (Converted) - Event
Event Type Code: F15
Event Type Description: FILE CHECKED OUT BY:
Note: DC I for review/signature

6/7/2018 MOTION TO TAKE JUDICIAL NOTICE OF
PRINT MEDIA ARTICLE AND ACLU LAWSUIT
- Document

6/7/2018 Proceedings (Converted) - Event
Event Type Code: M37
Event Type Description: MOT TO
Note: TAKE JUDICIAL NOTICE OF PRINT MEDIA ARTICLE AND ACLU LAWSUIT COPY RETURNED
TO MR. COOKE FILED PER DIRECTION OF DC 1 FILE IS CHECKED OUT PLEADING PLACED IN DC 1
PICKUP

6/28/2018 ORDER APPOINTING ATTORNEY-
Document

6/28/2018 Proceedings (Converted) - Event
Event Type Code: F16
Event Type Description: FILE CHECKED IN BY:

6/28/2018 Proceedings (Converted) - Event

Case Summary

Event Type Code: Q24
Event Type Description: ORD APPOINTING ATTY

7/3/2018 SUBMISSION BY THE STATE OF THE
MOTION TO HAVE ALL BERBERT COARDS
RECORDS, NOTES, AND ALL DOCUMENTS
SENT TO HIM BY - Document
ELKO DISTRICT ATTORNEY, ELKO COURT AND OR ELKO COUNTY PUBLIC DEFENDERS
PRESERVED, GATHERED AND SENT TO PETITIONER DANIEL COOKE

7/3/2018 Proceedings (Converted) - Event
Event Type Code: S65
Event Type Description: SUBMISSION
Note: SUBMISSION BY THE STATE OF MOTION TO HAVE ALL HEBERT COARDS RECORDS, NOTES,
AND ALL DOCUMENTS SENT TO HIM BY ELKO DA, ELKO COURT, AND OR ELKO CO PUBLIC
DEFENDERS PRESERVED, GATHERED, AND SENT TO PETITIONER DANIEL CHARLES COOKE

8/13/2018 Proceedings (Converted) - Event
Event Type Code: C35
Event Type Description: COPIES PREPARED FOR
Note: MACFARLAN ESQ OF THE PETITION

5/29/2019 Proceedings (Converted) - Event
Event Type Code: F15
Event Type Description: FILE CHECKED OUT BY:
Note: DC I for review/signature

2/7/2020 Open - Case Status
PETITION FILED

10/8/2020 REQUEST TO LEAVE TO FILE PETITIONER'S
PRO SE MOTION FOR BAIL PENDING
REVIEW - Document
COPY MAILED TO DANIEL COOKE #1178337
(PLACED IN DC1'S P/U BOX @ 10:01

11/24/2020 OPPOSITION TO MOTION FOR BAIL
PENDING REVIEW OF PETITION FOR WRIT
OF HABEAS CORPUS - Document
FILE CHK'D OUT, PLACED IN DC1 BOX @ 10:55 AM

12/1/2020 RETURN TO PETITION FOR WRIT OF
HABEAS CORPUS - Document
PLACED IN DC1 BOX

1/29/2021 ORDER FOR RECUSAL AND ORDER FOR
ASSIGNMENT - Document
TO DPET 3

2/8/2021 REQUEST FOR COPIES - Document
REQUEST FOR COPIES OF DOCKET SHEET & 12-PAGE AMENDED MEMO OF PLEA AGREEMENT
(FILED 2/10/17).
FILE CHECKED OUT; PLACED IN DC3 PICKUP BOX

Case Summary

2/8/2021 NOTE ADDED TO FILE - Case Notes
CLERK EMAILED COPY OF CASE SUMMARY AND AMENDED MEMORANDUM OF PLEA AGREEMENT TO DANIEL COOKE IN RESPONSE TO RECORD REQUEST FILED IN CV-HC-18-194

2/22/2021 INMATE MAIL RECEIVED - REQUEST - Document
SENT TO DC 3 WITH NOTE ASKING IF OK TO FILE.

2/22/2021 INMATE MAIL RECEIVED - Document
SENT TO DC 3 WITH NOTE ASKING IF OK TO FILE.

3/15/2021 REQUEST FOR CERTIFIED COPY OF THIRD AMENDED CRIMINAL INFORMATION - Document
MADE A COPY OF 3RD AMENDED CRIMINAL INFO FROM CASE CR-FP-16-7293 AND MAILED IT TO DANIEL COOKE INMATE #1178337 LOVELOCK CORRECTIONAL CENTER 1200 PRISON RD. LOVELOCK, NV 89419
FILE CHECKED OUT PLACED IN DC3 P/U BOX

3/15/2021 REQUEST FOR CERTIFIED COPY OF ORIGINAL MEMORANDUM OF PLEA AGREEMENT - Document
MADE A COPY OF ORIGINAL MOPA FROM CASE CR-FP16-7293 AND MAILED IT TO DANIEL COOKE INMATE #1178337 LOVELOCK CORRECTIONAL CENTER 1200 PRISON RD. LOVELOCK, NV 89419
FILE CHECKED OUT PLACED IN DC3 P/U BOX

3/19/2021 REQUEST FOR DOCKET - Document
REQUESTED MINUTES BUT DID NOT SPECIFY. SENT A NOTE ASKING FOR MORE INFORMATION. ALSO NOTED TWO EJC CASE NO 15TR01020 & 16-7293. MAILED BACK A FILE STAMPED COPY OF REQUEST AND DOCKET TO LOVELOCK CORRECTIONAL CENTER 1200 PRISON RD LOVELOCK, NV 89419

8/17/2021 ORDER DENYING POST-CONVICTION RELIEF - Document

8/25/2021 DC Habeas Corpus Notice - Document

8/26/2021 NOTICE OF ENTRY OF DECISION OR ORDER - Document
COPIES IN DA AND LOCKIE BOXES, MAILED TO AG, WARDEN AND PETITIONER

8/30/2021 INMATE MAIL - Document
PLACED IN DC3'S P/U BOX

9/2/2021 LETTER FROM DANILE COOKE - Document
SENT DANIEL COOKE A COPY OF THE JOC AND MINUTES

9/3/2021 NOTICE OF WITHDRAWAL OF ATTORNEY- Document

9/24/2021 NOTICE OF APPEAL - Document

9/30/2021 CASE APPEAL STATEMENT- Document

Case Summary

9/30/2021	CLERK'S CERTIFICATION - Document APPEAL SUBMITTED TO THE SUPREME COURT. COPIES EMAILED TP THE DA'S OFFICE. MAILED COPIES TO DANIEL COOK, TIM GARRETT, AND AARON FORD
10/12/2021	RECEIPT FOR DOCUMENTS 10.12 - Document
10/22/2021	ORDER OF LIMITED REMAND OR APPOINTMENT OF COUNSEL - Document FILE PLACED IN DC 3'S P/U BOX FOR APPOINTMENT OF COUNSEL
11/2/2021	ORDER APPOINTING APELLATE ATTORNEY- Document
7/11/2022	NOTICE OF TRANSFER TO COURT OF APPEALS - Document
8/9/2022	ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING 8.8.22- Document SUPREME COURT
9/6/2022	CLERK'S CERTIFICATE (SUPREME COURT)- Document
9/6/2022	CERTIFIED ORDER AFFIRMING IN PART REVERSING IN PART AND REMANDING (SUPREME COURT) - Document
9/6/2022	REMITTITUR - Document SIGNED AND SEALED. MAILED COPY TO THE SUPREME COURT
9/12/2022	ORDER SETTING EVIDENTIARY HEARING FOLLOWING REMAND - Document
9/12/2022	ORDER APPOINTING ATTORNEY-GAUMOND - Document
9/12/2022	WRIT OF HABEAS CORPUS - Document
9/12/2022	CLERK'S PROOF OF SERVICE OF WRIT OF HABEAS CORPUS (2) - Document
9/13/2022	RECEIPT OF CLERK' PROOF OF SERVICE OF WRIT OF HABEAS COPRPUS DATED SEPT. 12, 2022 - Document

Case Summary

11/2/2022	ORDER TO PRODUCE PRISONER - Document
12/13/2022	BOOKING SHEET 12.6 - Document BOOKING DATE 12/6/22
12/13/2022	REDACTED BOOKING SHEET 12.6 - Document
12/15/2022	12.19.22 Civil Hearing Minutes - Document
1/31/2023	ORDER DENYING PETITION FOR POST CONVICTION RELIEF - Document
2/2/2023	DC Habeas Corpus Notice (2) - Document
2/2/2023	NOTICE OF ENTRY OF DECISION OR ORDER - ORDER DENYING PETITION - Document
2/17/2023	RETURNED MAIL - DANIEL COOKE - Document
2/22/2023	NOTICE OF APPEAL. - Document
2/22/2023	CASE APPEAL STATEMENT.- Document
2/22/2023	REQUEST FOR VERBATIM TRANSCRIPT - Document REQUESTED BY BEN GAUMOND PLACED ON AM DESK FOR APPEAL
2/23/2023	CLERK;S CERTIFICATION 2.23.23 - Document SIGNED AND SEALED. FILED WITH THE SUPREME COURT. EMAILED COPY TO ATTORNEY'S AND MAILED COPY TO THE ATTORNEY GENERAL

Case No. CV-HC-18-194

Dept. No. 3

FILED

2021 NOV -2 AM 11:03

ELKO CO DISTRICT COURT

CLERK _____ DEPUTY 

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

DANIEL CHARLES COOKE,

Appellant,

v.

CHARLES DANIELS, DIRECTOR,
NEVADA DEPARTMENT OF
CORRECTIONS,

Respondent.

**ORDER APPOINTING
APPELLATE ATTORNEY**

On October 19, 2021, the Supreme Court of Nevada filed an Order of Limited Remand for Appointment of Counsel for the Appellant in this case.

THEREFORE, IT IS HEREBY ORDERED that Ben Gaumond, Esq. is hereby appointed to represent Daniel Charles Cooke in this matter on appeal.

DATED this 2 day of November, 2021.


Hon. Mason E. Simons
District Judge, Department 3

1
2 CERTIFICATE OF SERVICE

3 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District Court,
4 Department 3, and that on this 2 day of November, 2021, served by hand delivery a true copy of the
5 foregoing document addressed to:

6 Tyler J. Ingram, Esq.
7 Elko County District Attorney
[Box in Clerk's Office]

8 Ben Gaumond, Esq.
9 495 Idaho Street, #109
Elko, NV 89801
10 [Box in Clerk's Office]

11 Aaron Ford, Esq.
Nevada Attorney General
12 100 North Carson Street
Carson City, NV 89701
13 [Regular US Mail]

14 Daniel Charles Cooke, Inmate #1178337
Lovelock Correctional Center
15 1200 Prison Road
Lovelock, NV 89419
16 [Regular US Mail]

17 Supreme Court of the State of Nevada
201 S. Carson Street, Suite 201
18 Carson City, NV 89701
19 [Regular US Mail]

20
21 
22 Signature of Court Employee
23
24
25
26
27
28

FILED

2023 JAN 31 AM 9:58

4TH JUDICIAL DISTRICT COURT

CLERK DEPUTY



CASE NO. CV-HC-18-194

DEPT. NO. 3

FOURTH JUDICIAL DISTRICT COURT
COUNTY OF ELKO, STATE OF NEVADA

DANIEL CHARLES COOKE,

Petitioner,

vs.

ORDER DENYING PETITION FOR POST

CONVICTION RELIEF

RENEE BAKER, [now, TIM GARRETT],
Warden of Lovelock Correctional Center,
and CHARLES DANIELS, director of
Nevada Department of Corrections,

Respondents.

PROCEDURAL HISTORY

The Petitioner, Daniel Charles Cooke, filed a Petition for Writ of Habeas Corpus (Post-Conviction) on April 9, 2018, alleging ineffective assistance of counsel. Mr. Cooke alleged that his counsel: (1) failed to pursue a direct appeal upon Mr. Cooke's request; (2) failed to adequately investigate voluntary intoxication as a defense to his charges; and (3) failed to advise him of the minimum sentence he faced for attempted sexual assault of a child under the age of 16 years.

The Court denied all three of Petitioner's claims without conducting an evidentiary hearing, and the Petitioner appealed. The Nevada Court of Appeals upheld the Court's decision to deny the Petition regarding the alleged failure to investigate voluntary intoxication

1 and the alleged failure to advise Mr. Cooke of the minimum sentence. The Nevada Court of
2 Appeals held that this Court erred by failing to conduct an evidentiary hearing regarding Mr.
3 Cooke's claim that his counsel failed to pursue a direct appeal and remanded that issue back
4 to this Court to conduct an evidentiary hearing.

5 This Court conducted an evidentiary hearing on December 19, 2022. The Petitioner
6 was present, in custody, along with his post-conviction counsel, Benjamin Gaumond, Esq.
7 Chad Thompson, Esq. was present on behalf of the Respondents. The sole issue addressed
8 at the evidentiary hearing was Petitioner's claim that his defense counsel failed to pursue a
9 direct appeal after being directed to do so by Mr. Cooke.

10 At the evidentiary hearing, the Court took testimony from Brian Green, Esq.,
11 Petitioner's trial counsel, and Daniel Charles Cooke, Petitioner.

12 13 LEGAL ISSUE

14 The issue is whether the Petitioner's counsel, Brian Green, had a duty to consult with
15 Daniel Cooke about an appeal and/or failed to file an appeal when obligated to do so.

16 17 FACTUAL BACKGROUND

18 Petitioner, Daniel Charles Cooke, was charged in a Second Amended Criminal
19 Information filed on December 13, 2016 with the following charges: Count 1: Sexual Assault
20 on a Child Under the Age of 14 Years, a Category A Felony as defined by NRS 200.366,
21 Count 2: Lewdness with a Child Under 14 Years of Age, a Category A Felony as defined by
22 NRS 201.230, and Count 3: Abuse of Neglect of a Child, a Category B Felony as defined by
23 NRS 200.508(1). Following plea negotiations, Petitioner entered into a plea agreement on
24 February 10, 2017 and subsequently entered a plea of guilty on February 16, 2017 to one
25 count of Attempted Sexual Assault of a Child who is less than 16 Years of Age, a Category B
26 Felony as defined by NRS 200.366 and NRS 193.330 (as charged in the 3rd Amended
27 Criminal Information filed on February 14, 2017). At the time he entered his plea, Mr. Cooke
28 indicated that he understood the conditions of the plea and that he wished to voluntarily enter

1 a guilty plea. At sentencing, Mr. Cooke was sentenced to 8 to 20 years in the Nevada
2 Department of Corrections.

3 LEGAL AUTHORITY

4 Counsel has a constitutional duty to pursue a direct appeal in two circumstances:
5 when requested to do so and when the defendant expresses dissatisfaction with his
6 conviction. *Toston v. State*, 127 Nev. 971, 978, 267 P.3d 795, 800 (2011). Prejudice is
7 presumed when counsel "fails to file a direct appeal after a defendant has requested or
8 expressed desire for a direct appeal." *Hathaway v. State*, 119 Nev. 248, 254, 71 P.3d 503,
9 507 (2003). Counsel has a constitutional duty to consult with the defendant about an appeal
10 when there is reason to think either "(1) that a rational defendant would want to appeal, or (2)
11 that this particular defendant reasonably demonstrated to counsel that he was interested in
12 appealing." *Roe v. Flores-Ortega*, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036 (2000). A court
13 must consider all relevant factors when determining "whether a rational defendant would
14 have desired an appeal or that that the particular defendant sufficiently demonstrated to
15 counsel an interest in an appeal." *Id.* Whether the defendant accepted a guilty plea is a
16 highly relevant factor. *Id.*

17 ANALYSIS

18 The Petitioner argues that he requested an appeal by: (1) verbally stating to Brian
19 Green during plea discussions and after sentencing "we can just appeal" and (2) sending a
20 letter to Brian Green roughly a week after sentencing directing him to appeal.

21 The Court must look at all relevant factors to determine whether Brian Green had a
22 duty to consult with Daniel Cooke about an appeal and/or to possibly file an appeal. The first
23 factor the Court considers is that Mr. Cooke entered a guilty plea. At his arraignment, Mr.
24 Cooke stated that he understood the conditions of the plea and that he voluntarily wished to
25 enter a guilty plea. At sentencing, Mr. Cooke did not receive a sentence outside of the
26 boundaries of the plea agreement or the confines of what was statutorily allowed for the
27 charged offense. The plea agreement also provided for limited circumstances in which an
28 appeal could be sought, but otherwise waived the Petitioner's right to an appeal. This factor

1 favors the Respondent, as Mr. Cooke knew the substance of the agreement he had entered
2 into and understood his limited appellate rights.

3 The next factor is the alleged verbal requests for an appeal. Mr. Cooke alleges that he
4 told Mr. Green "well we can just appeal" twice - once during discussions about the plea
5 agreement at the Elko County Jail and once right after sentencing. If true, these would be
6 statements acknowledging an understanding on the part of the Petitioner that he had a right
7 to appeal, but not necessarily a statement of dissatisfaction about his conviction. The
8 statement allegedly made during plea negotiations at the Elko County Jail, would obviously
9 have occurred before the Petitioner even knew his sentence, and there would be no ability
10 on the part of a Defendant to express dissatisfaction about a sentence he had yet to even
11 receive. As such, this statement would have to be a statement acknowledging an
12 understanding of an eventual right to appeal, rather than a statement of dissatisfaction with
13 the conviction, as a conviction and sentencing had yet to occur. As the Petitioner allegedly
14 repeats the identical statement on a second occasion after sentencing, the Court is
15 compelled to take the same interpretation - the statement is one acknowledging an
16 understanding on the part of the Petitioner that he had a right to an appeal, not necessarily a
17 statement of dissatisfaction about his conviction or a directive to appeal.

18 The final factor is the alleged letter Mr. Cooke sent to Mr. Green from the jail asking
19 for Mr. Green to appeal his sentence. A copy of the purported letter was admitted at the
20 evidentiary hearing. The letter, which was admitted, is purported to be an identical
21 holographic copy of the letter he sent to his trial counsel, Brian Green, following his
22 sentencing hearing. Said letter includes a date line indicating the exact date he purportedly
23 prepared the letter and transmitted said letter to his trial counsel. Strangely, the letter
24 contains the wrong year on the date line of the letter, and Mr. Green testified that he never
25 received any such letter. The fact that the letter contains the incorrect year raises serious
26 credibility questions in the mind of the Court that the letter was in fact drafted and sent when
27 the Petitioner claims to have done so. This fact, combined with counsel's lack of knowledge
28 of ever having received such a letter, and the fact that the Public Defender's Office (for

1 whom trial counsel worked at the time the Petitioner was sentenced/convicted) has no record
2 of ever having received such a letter (in their electronic case management system) the Court
3 must necessarily conclude that the letter was not drafted and/or sent when the Petitioner
4 claims to have done so.

5 Considering all of the factors noted above, the Court must determine whether Mr.
6 Green, in light of these facts had a duty to consult with Mr. Cooke about an appeal. To do so,
7 the Court must consider what a reasonable attorney would do in a similar situation. When a
8 defendant pleads guilty and receives a sentence within the bounds of the plea, an attorney is
9 unlikely to find it necessary to discuss a possible appeal with the defendant without expressly
10 being asked to do so. As Mr. Cooke's alleged statements indicating "well we can just appeal"
11 were not directives to appeal or statements of dissatisfaction with the sentence, these
12 statements did not obligate counsel to pursue an appeal. The Court having found that Mr.
13 Green never received any actual notice requesting an appeal, nor did the Defendant express
14 explicit dissatisfaction with the sentencing outcome, Mr. Green acted as a reasonable
15 attorney would have in similar circumstances and Mr. Green's performance as counsel was
16 not ineffective.

17 GOOD CAUSE APPEARING,

18 IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief is DENIED.

19 DATED this 30 day of January, 2023.

20
21
22
23 
24 HON. MASON E. SIMONS
25 District Court Judge – Dept. 3
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District Court, Department 3, and that on this 31 day of January, 2023, I served in the manner noted below a file stamped copy of this document addressed to:

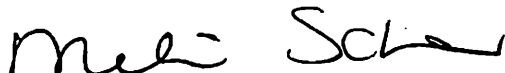
Elko County District Attorney's Office
[Box in Clerk's Office]

Benjamin C. Gaumond, Esq.
[Box in Clerk's Office]

Nevada Attorney General's Office
100 N. Carson Street
Carson City, NV 89701
[U.S. Regular Mail]

Daniel Charles Cooke (Inmate #1178337)
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
[U.S. Regular Mail]

Tim Garrett, Warden
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
[U.S. Regular Mail]



Court Staff

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable MASON E. SIMONS, District Judge,
and Officers of the Court.

DANIEL CHARLES COOKE,

Plaintiff,

VS.

Date: December 19, 2022

Case No.: ECDC-CVHC-18-194

Dept.: 3

RENEE BAKER (not TIME
GARRETT) WARDEN,

Defendant.

Plaintiff present and represented by
Benjamin Gaumond, Esq.
Defendant present and represented by
Chad Thompson, Esq.
Court Clerk, Amanda Alaniz, present.

HEARING ON WRIT OF HABEAS CORPUS

Court convened at 8:45 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a hearing on Evidentiary Hearing on the Petition for writ of habeas corpus filed April 9, 2022.

The Court made a record of the case.

The State advised the Court that Mr. Green also represent the defendant and wanted to canvass the Plaintiff to see if there is any conflict in the case and was stipulating that the criminal case transcripts be allowed as part of this case.

Mr. Gaumond advised the Court that he was an attorney for the Public Defender but had no connection to the criminal case and feels that he can still be a fair representative to the case.

The Court canvassed the Plaintiff regarding the criminal case and if he understood.

The Plaintiff advised the Court that he would still like Mr. Gaumond to remain on this case.

The State advised the Court that they were ready to proceed.

Mr. Gaumond called Daniel Cooke as his first witness.

Mr. Green advised the Court that did he need to be included in the rule of exclusion.

The Court advised Mr. Green that the parties are okay with him being in the Courtroom.

The witness was sworn and examined on direct by Mr. Gaumond.

Mr. Gaumond offered, a letter from Daniel Cooke, as Exhibit A.

The Court **ORDERED** Exhibit A, a letter from Daniel Cooke, entered.

Direct examination continued.

Cross examination by the State.

Re-direct by Mr. Gaumond.

Re-cross by the State.

The witness was excused.

The State called Brian Green as a witness.

The witness was sworn in and examined on direct by the State.

Cross-examination by Mr. Gaumond.

The State offered Exhibit 1, E-mail from Matthew Pennell, to be entered.

The court **ORDERED**, Exhibit 1, E-mail from Matthew Pennell, to be entered.

Mr. Gaumond made recommendations and closing statements.

The State made recommendations and closing statements.

Rebuttal by Mr. Gaumond.

The Court took matters under advisement.

Court adjourned at 10:35 a.m.

Case No. CV-HC-18-194

Dept. No. 3

FILED

2023 FEB 23 AM 11:05

ELKO CO DISTRICT COURT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

CLERK DEPUTY AM

DANIEL CHARLES COOKE,
Appellant,

vs.

CHARLES DANIELS, DIRECTOR,
Nevada Department of Corrections,
Respondent,

CLERK'S CERTIFICATION

I, KRISTINE JAKEMAN, the duly elected, acting and qualified County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed are true, full and correct copies of certain documents in Case No. CV-HC-18-194, Dept. 3, DANIEL CHARLES COOKE, Appellant, vs. CHARLES DANIELS, DIRECTOR, Nevada Department of Corrections, Respondent, as appears on file and of record in my office.

WITNESS My Hand and Seal of said Court on February 23, 2023.

KRISTINE JAKEMAN, ELKO COUNTY CLERK

By


Annette Marshall, DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. CV-HC-18-194, Dept. 3, DANIEL CHARLES COOKE, Appellant, vs. CHARLES DANIELS, DIRECTOR, Nevada Department of Corrections, Respondent, as appears on file and of record in this Court, to the following:

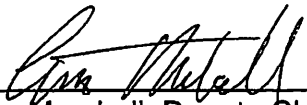
Elko County District Attorney
canchondo@elkocountynv.net
csmith@elkocountynv.net
tyell@elkocountynv.net
tingram@elkocountynv.net

Daniel Charles Cooke #1178337
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

Aaron Ford
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701-4717

Tim Garrett, Warden
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

DATED this 23rd, day of February 2023.



Annette Marshall, Deputy Clerk