

IN THE SUPREME COURT OF THE STATE OF NEVADA

Justin Odell Langford,
Appellant,

No. 86182

FILED

MAY 05 2023

VS.

The State of Nevada,
Respondent.

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY Melissa Torres
DEPUTY CLERK

MOTION FOR RECONSIDERATION EN BANC

Comes Now, Justin Odell Langford, In Proper, To file his motion For Reconsideration En banc, and moves this Honorable Court to enter an order granting his motion. This motion is made and based upon NRAP 40A, and is further made and based upon all papers, pleadings, files, and documents on file with this Honorable Court along with the following Points and Authorities:

MEMORANDUM OF POINTS AND AUTHORITIES

Nev. Rev. Stat. 34.780(1) "The Nevada Rules of Civil Procedure, to the extent that they are not inconsistent with NRS 34.360 to 34.830, inclusive, apply to proceedings pursuant to 34.720 to 34.830, inclusive."

On Apr. 12, 2023 the Appellant filed a motion to reconsider pursuant to NRAP 40, in which this Court

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denied on April 24th, 2023. Now the Appellant comes to this Court with a motion to reconsider en banc. In this Court's orders dated Apr. 3rd, 2023 and now Apr. 24th, 2023 this Court shows it is willing to let an Appellant be prejudiced by the inept actions of a court clerk in the 8th Judicial District Court who filed the Petition for Writ of Habeas Corpus (Post-Conviction) under Appellants Criminal case number

This Court is now choosing not to follow state law which say the NRCP do apply to Appellants habeas, but are ignoring Buck v. Davis, 137 S. Ct. 759 (2017) which also shows rule 60(b) does apply to habeas Corpus Petitions. See NRAP 3A and this Court has said the denial of a rule 60(b) motion is appealable.

Even the State in its response acknowledges that the Pleading is attacking the Denial of a Petition For Writ of Habeas Corpus, if the Court Clerk messed up say this so. *The Appellant can sue them and show me the law that says it must be filed ~~in~~ in its own case #. Otherwise it will be considered you who is prejudicing the Appellant, which means your biased against the Appellant and are required to remove yourself. The Rule 60(b) Pleading is attacking the Habeas/Civil matter that is contained within the criminal matter. Its applied to a civil matter, it dont matter where its filed.

CONCLUSION

WHEREFORE Appellant moves this Court to consider this matter En banc as this is not an isolated issue where a court clerk has wrongfully filed a habeas petition in a criminal case to prevent this, and this Court has allowed it to go on even though it was brought to their attention. Appellant prays this Court remedy this matter.

VERIFICATION

I, Declare and verify, that I have read the above-entitled document and to the best of my own knowledge and belief that it is true and correct under the pains and penalties of perjury pursuant to 28 U.S.C. 31746

DATE: May 1ST, 2023



Appellant

CERTIFICATE OF SERVICE

I, certify, that I have attached a true and correct copy of the foregoing document, with a special instructions to the Clerk of the Court for E-file and E-Serve all of my opponents pursuant to N.E.F.C.R. 9 et. seq. (A-E) Etc., to the following people on the master Service List.

Service List

Carli Kierny, District Judge

Aaron Ford, Nev. Atty. Gen.

Steven Wolfson, Clk. Cnty D.A.

Eighth Judicial Dist. Ct. Clerk.