

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMON LAMAR CAMPBELL,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Apr 11 2023 09:36 AM
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-22-849848-W
Related Case 00C169550
Docket No: 86265

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
DAMON CAMPBELL #71683,
PROPER PERSON
P.O. BOX 1989
ELY, NV 89301

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

A-22-849848-W Damon Campbell, Plaintiff(s) vs. Warden Childers, Defendant(s)

I N D E X

VOLUME: **PAGE NUMBER:**

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A-22-849848-W

Damon Campbell, Plaintiff(s)
vs.
Warden Childers, Defendant(s)

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
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Damon Campbell, # 71683
Warm Springs Correctional Center
P.O. Box 7007
Carson City, Nevada 89702

PETITIONER IN PROPER PERSON

FILED

MAR 17 2022

Thomas A. Williams
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA IN AND FOR THE COUNTY OF CLARK

DAMON CAMPBELL

Petitioner,

V.

WARDEN CHILDERS

Respondent

Case No.:

Case A-22-849848-W
Dept. 24

Dept. No.

PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: WARM SPRINGS CORRECTIONAL CENTER - Washoe County.
Serving sentence of Life Without the Possibility of Parole

2. Name and location of court which entered the judgment of conviction under attack:
Eighth Judicial District Court - Las Vegas, Nevada -
Clark County

3. Date of judgment of conviction: January 14, 2002

4. Case number: 00C169550

5. (a) Length of sentence: Life Without the Possibility Parole

1 (b) If sentence is death, state any date upon which
2 execution is scheduled: _____
3

4 6. Are you presently serving a sentence for a conviction
5 other than the conviction under attack in this motion?

6 Yes _____ No X

7 If "yes," list crime, case number and sentence being
8 served at this time: _____
9

10 7. Nature of offense involved in conviction being
11 challenged: Murder With the Use of a Deadly Weapon
12 _____
13

14 8. What was your plea? (check one)

15 (a) Not guilty X

16 (b) Guilty _____

17 (c) Guilty but mentally ill _____

18 (d) Nolo contendere _____
19

20 9. If you entered a plea of guilty to one count of an
21 indictment or information, and a plea of not guilty to another
22 count of an indictment or information, or if a plea of guilty was
23 negotiated, give details: _____
24 _____
25 _____
26

27 10. If you were found guilty after a plea of not guilty, was
28 the finding made by: (check one)

1 (a) Jury X

2 (b) Judge without a jury _____

3
4 11. Did you testify at the trial? Yes _____ No X

5
6 12. Did you appeal from the judgment of conviction?

7 Yes X No _____

8
9 13. If you did appeal, answer the following:

10 (a) Name of court: Nevada Supreme Court

11 (b) Case number or citation: 39127

12 (c) Result: Affirmed

13
14
15 (d) Date of result: 07/14/03

16 (Attach copy of order or decision, if available.)

17
18 14. If you did not appeal, explain briefly why you did not:

19
20
21
22
23 15. Other than a direct appeal from the judgment of
24 conviction and sentence, have you previously filed any petitions,
25 applications or motions with respect to this judgment in any
26 court, state or federal? Yes X No _____

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: Nevada Supreme Court

(2) Nature of proceeding: Writ of Habeas Corpus

(3) Grounds raised: Ineffective Assistance of Counsel;
Confrontation Clause

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes _____ No X

(5) Result: _____

(6) Date of result:

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition,
application or motion? Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

1 (7) If known, citations of any written opinion or date of
2 orders entered pursuant to such result: _____
3 _____
4 _____

5 (c) As to any third or subsequent additional applications or
6 motions, give the same information as above, list them on a
7 separate sheet and attach.

8 (d) Did you appeal to the highest state or federal court
9 having jurisdiction, the result or action taken on any petition,
10 application or motion?

11 (1) First petition, application or motion?

12 Yes X No _____

13 Citation or date of decision: 07/06/06

14 (2) Second petition, application or motion?

15 Yes _____ No _____

16 Citation or date of decision: _____
17

18 (3) Third or subsequent petitions, applications or motions?

19 Yes _____ No _____

20 Citation or date of decision: _____
21

22 (e) If you did not appeal from the adverse action on any
23 petition, application or motion, explain briefly why you did not.

24 (You must relate specific facts in response to this question.

25 Your response may be included on paper which is 8 1/2 by 11

26 inches attached to the petition. Your response may not exceed

27 five handwritten or typewritten pages in length.)
28

1 17. Has any ground being raised in this petition been
2 previously presented to this or any other court by way of
3 petition for habeas corpus, motion, application or any other
4 post-conviction proceeding? If so, identify:

5
6 (a) Which of the grounds is the same: _____
7 _____
8 _____

9 (b) The proceedings in which these grounds were raised:
10 _____
11 _____

12 (c) Briefly explain why you are again raising these grounds.
13 _____
14 _____
15 _____

16 (You must relate specific facts in response to this
17 question. Your response may be included on paper which is 8 1/2
18 by 11 inches attached to the petition. Your response may not
19 exceed five handwritten or typewritten pages in length.)
20 _____
21 _____
22 _____

23
24 18. If any of the grounds listed in Nos. 23(a), (b), (c) and
25 (d), or listed on any additional pages you have attached, were
26 not previously presented in any other court, state or federal,
27 list briefly what grounds were not so presented, and give your
28 reasons for not presenting them. (You must relate specific facts

1 in response to this question. Your response may be included on
2 paper which is 8 1/2 by 11 inches attached to the petition. Your
3 response may not exceed five handwritten or typewritten pages in
4 length.)

5 Not challenging the Constitutionality of Petitioner's Judgment
6 of Conviction, rather the validity of Petitioner's Judgment
7 of Conviction is contested

8
9 19. Are you filing this petition more than 1 year following
10 the filing of the judgment of conviction or the filing of a
11 decision on direct appeal? If so, state briefly the reasons for
12 the delay. (You must relate specific facts in response to this
13 question. Your response may be included on paper which is 8 1/2
14 by 11 inches attached to the petition. Your response may not
15 exceed five handwritten or typewritten pages in length.)

16 Yes. Findings after Petitioner's conviction brought Petitioner
17 to recognize the discrepancies in Petitioner's
18 Judgment of Conviction

19 20. Do you have any petition or appeal now pending in any
20 court, either state or federal, as to the judgment under attack?
21 Yes _____ No X If yes, state what court and the case number:
22 _____
23 _____

24 21. Give the name of each attorney who represented you in
25 the proceeding resulting in your conviction and on direct appeal:

26 Stanley Walton . David Schieck

27 22. Do you have any future sentences to serve after you
28 complete the sentence imposed by the judgment under attack?

Yes X No _____

1 If yes, specify where and when it is to be served, if you know:

2 19 to 48 months, State of Nevada

3
4
5 23. State concisely every ground on which you claim that you
6 are being held unlawfully. Summarize briefly the facts
7 supporting each ground. If necessary you may attach pages
8 stating additional grounds and facts supporting same.

9 (a) Ground one: Invalid Judgment of Conviction

10
11
12
13
14 (b) Ground two: Invalid Judgment of Conviction

15
16
17
18
19 (c) Ground three: _____

20
21
22
23
24 (d) Ground four: _____

23. (a) GROUND ONE: Petitioner's pre-sentence credit
for time served improperly calculated

23. (a) SUPPORTING FACTS (tell your story briefly without citing
cases or law): On January 14, 2002 the district
court miscalculated Petitioner's pre-sentence
credit for time served during Petitioner's sentencing
hearing.


See attached Brief

1 23. (b) GROUND TWO: Petitioner's restitution order
2 in his Judgment of Conviction is invalid
3
4

5 23. (b) SUPPORTING FACTS (tell your story briefly without citing
6 cases or law): On January 14, 2002 the district
7 court failed to state with specificity to which
8 victim and amount owed during sentencing
9 hearing.
10 See attached Brief
11
12
13
14
15
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28

1 WHEREFORE, petitioner prays that the court grant petitioner
2 relief to which he may be entitled in this proceeding.

3
4 EXECUTED at WARM SPRING CORRECTIONAL CENTER
5 on the 21st day of the month of February of the
6 year 2022

7 
8 _____
9 Signature of petitioner

10 P.O. Box 7007
11 Carson City, Nevada 89702
12 _____

13 Address
14 _____

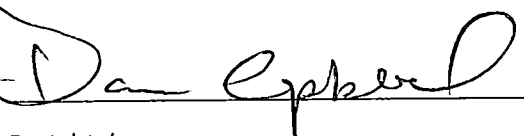
15 Signature of attorney (if any)
16 _____

17 Attorney for petitioner
18 _____
19 _____
20 _____

21 Address
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 _____

1
2
3 **VERIFICATION**

4 Under penalty of perjury, the undersigned declares that he
5 is the petitioner named in the foregoing petition and knows the
6 contents thereof; that the pleading is true of his own knowledge,
7 except as to those matters stated on information and belief, and
8 as to such matters he believes them to be true.

9 

10 Petitioner

11 _____
12 Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, Damon Campbell, hereby certify pursuant to
N.R.C.P. 5(b), that on this 21st day of the month of February
of the year 2022, I mailed a true and correct copy of the
foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

WARDEN CHILDERS

Respondent prison or jail official

P.O. BOX 7007

Carson City, Nevada 89702

Address

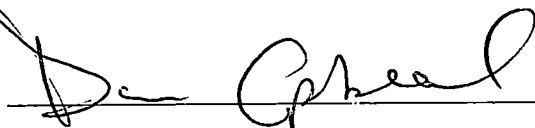
Attorney General's Office

100 North Carson Street

Carson City, Nevada 89701-4717

District Attorney of County of Conviction

Address



Signature of Petitioner

P.O. Box 7007

Warm Springs Correctional Center

Carson City, Nevada 89702

AFFIRMATION
PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding Petition for

Writ of Habeas Corpus

(Title of Document)

Filed in District Court Case number 00C169550

☒

Does not contain the social security number of any person.

-OR-

1

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-Or-

B. For the administration of a public program or for an application for a federal or state grant.

Signature _____

Date _____

Print name

Title

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMON LAMAR CAMPBELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39127

FILED

JUL 14 2003

CLERK OF SUPREME COURT
DOROTHY C. SPY

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of murder with the use of a deadly weapon and attempted murder with the use of a deadly weapon.

On July 22, 2000, appellant Damon Campbell approached two Hispanic males in his apartment complex parking lot. Campbell and the Hispanic men exchanged words. One of the Hispanic men whistled, causing several of his friends to run to the parking lot. Campbell fired multiple gunshots and then returned to his apartment. Shortly after, Campbell reached through his bathroom window and fired three shots, killing Luis Alberto Martinez and paralyzing Carlos Villanueva. Campbell remained inside his apartment with three other individuals until police entered several hours later and arrested him.

The State charged Campbell with one count of murder with the use of a deadly weapon and two counts of attempted murder with the use of a deadly weapon. The State also sought the death penalty. The jury found Campbell guilty of first degree murder with the use of a deadly weapon. The jury also found the aggravating circumstance of murder being committed by a person who knowingly created great risk to more than one person. Because the jury determined mitigating circumstances outweighed the aggravating circumstance, the jury returned a verdict of life without the possibility of parole.

The district court sentenced Campbell to two consecutive terms of life without the possibility of parole and two maximum consecutive terms of 192 months. Both consecutive terms are to be served concurrently.

Campbell first argues the district court erred in refusing to instruct the jury on his theory of self-defense. He argues the self-defense jury instructions did not address his specific defense in which he asserts a group attacked him and, thus, he was justified in defending himself against the entire group, as if he had been defending himself against an individual attacking him with deadly force. The State argues Campbell waived the issue for appellate review because he agreed to the proposed jury instruction after he initially objected. The State contends refusing to instruct a jury on a defendant's theory of the case does not rise to the level of reversible error when the proffered instruction is substantially covered by the jury instructions given to the jury.

A criminal defendant is entitled to have the jury instructed on his theory of the case, no matter how weak or incredible the evidence supporting the theory may be.¹ However, if a proffered jury instruction "misstates the law or is adequately covered by other instructions, it need not be given."²

In this case, Campbell proffered this addition to a proposed jury instruction: "A person who is attacked by more than one person has the right to act in self-defense against all of his attackers." However, the district court added "(s)" to assailant and provided the following jury instruction:

¹Barron v. State, 105 Nev. 767, 773, 783 P.2d 444, 448 (1989).

²Id.

The right of self-defense is not available to an original aggressor, that is a person who has sought a quarrel with the design to force a deadly issue and thus through his fraud, contrivance or fault, to create a real or apparent necessity for making a felonious assault.

However, where a person without voluntarily seeking, provoking, inviting or willingly engaging in a difficulty of his own free will, is attacked by an assailant(s), he has the right to stand his ground and need not retreat when faced with the threat of deadly force.

We first conclude Campbell's proffer of an addition to the jury instruction adequately preserved this issue for review.

We further conclude Campbell's proffered addition appears to be adequately covered by the above jury instruction, as it includes situations where a person is attacked by more than one assailant. We conclude the jury instruction could not have mislead the jury because, if the jury had concluded Campbell was attacked by a group and faced the threat of deadly force, his actions would have been justified. Accordingly, we conclude the district court did not err in refusing to give the proffered instruction.

Next, Campbell argues the district court abused its discretion in allowing prior bad act testimony. The State argues the district court did not abuse its discretion in allowing prior bad act testimony because Campbell opened the door by inquiring about Campbell's character.

Prior to trial, the district court ruled that a prior shooting incident involving Campbell could not be presented in the State's case-in-chief. During cross-examination, the State elicited the following testimony from John Woodring, the apartment maintenance manager:

Q. You didn't like the Mexican people over there, did you?

A. I didn't care if they were Mexican or who they were. I just, you know.

Q. You didn't like them?

A. No, at my apartment complex.

He further testified, on cross-examination, that the "Mexican" tenants were a pain because they partied, drank all the time, and left a great deal of broken bottles outside. During redirect, Campbell elicited the following testimony from Woodring:

Q. As far as you were concerned, Mr. Campbell was nothing more man [sic] a paying tenant, correct?

A. Exactly.

Q. As long as he didn't violate your rules, you didn't have no problem with him being there?

A. I didn't have no problem with Damon Campbell at all.

Based on Campbell's inquiry on redirect, the district court determined he had opened the door by putting Campbell's character at issue and allowed inquiry into the prior shooting incident.

Where the complaining party first questions a witness regarding otherwise inadmissible testimony, that party is barred from preventing the testimony's admission under the open door doctrine.³ The doctrine provides that the introduction of inadmissible evidence by one party allows the other party, in the court's discretion, to introduce evidence on the same issue to rebut any false impression that might have resulted from the earlier admission.⁴ It does not permit the introduction

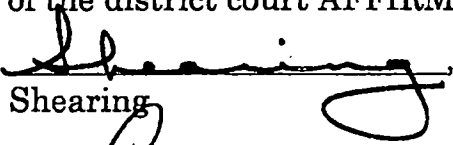
³See Taylor v. State, 109 Nev. 849, 851, 858 P.2d 843, 845 (1993).

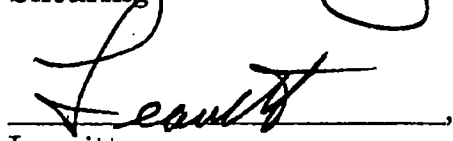
⁴United States v. Whitworth, 856 F.2d 1268, 1285 (9th Cir. 1988).


of evidence that is related to a different issue or is irrelevant to the evidence previously admitted.⁵

During cross-examination, the State attempted to impeach Woodring by showing his prejudice against Hispanics. We conclude Campbell's inquiry during redirect was not an inquiry about Campbell's character, for it did not place character in issue. Instead, the inquiry during redirect merely tended to rebut the inference of prejudice on cross-examination. The question was directed to indicate Woodring had no reason to lie for Campbell, and that Campbell was just another tenant. Thus, we conclude the district court erred in finding Campbell had opened the door for admitting the prior shooting incident. Nevertheless, we conclude the error was harmless because overwhelming evidence was adduced to support Campbell's convictions. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


Shearing J.


Leavitt J.


Becker J.

⁵Id.

⁶We have considered Campbell's other claimed errors regarding the motion to strike the aggravating circumstances, the constitutionality of the aggravating circumstances enunciated in NRS 200.333, and the sufficiency of the evidence. We decline to consider the assignments of error regarding the aggravating circumstances because Campbell was not sentenced to death. We conclude the assignment of error regarding the sufficiency of evidence is without merit.

cc: Hon. Sally L. Loehrer, District Judge
David M. Schieck
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

ORIGINAL

FILED

JAN 22 8 35 PM '02

CLERK

1 JOC
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12
13 Plaintiff,

14 -vs-

Case No. C169550
Dept. No. XV

15 DAMON CAMPBELL
16 Defendant.

17 JUDGMENT OF CONVICTION (JURY TRIAL)

18 The Defendant previously entered plea(s) of not guilty to the crime(s) of COUNT I -
19 MURDER WITH USE OF A DEADLY WEAPON (Felony) and COUNTS II & III - ATTEMPT
20 MURDER WITH USE OF A DEADLY WEAPON (Felony), in violation of NRS 200.010,
21 200.030, 193.165, 193.330, and the matter having been tried before a jury, and the Defendant
22 being represented by counsel and having been found guilty of the crime(s) of COUNT I -
23 MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON (Felony) and
24 COUNTS II - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony); and
25 thereafter on the 14th day of January, 2002, the Defendant was present in Court for sentencing
26 with his counsel, STAN WALTON, ESQ.; and good cause appearing therefor,

27 THE DEFENDANT HEREBY ADJUDGED guilty of the crime(s) as set forth in the
28 jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 DNA Fee
and \$2500.00 RESTITUTION (jointly and severally with co-defendant), the Defendant is

1 sentenced as follows:

2 COUNT I - LIFE WITHOUT THE POSSIBILITY OF PAROLE in the Nevada Department of
3 Corrections (NDC) plus an EQUAL and CONSECUTIVE term of LIFE WITHOUT THE
4 POSSIBILITY OF PAROLE in the Nevada Department of Corrections (NDC) for use of a
5 deadly weapon;

6 COUNT II - a MINIMUM of FORTY THREE (43) MONTHS and a MAXIMUM of ONE
7 HUNDRED NINETY TWO (192) MONTHS in the Nevada Department of Corrections
8 (NDC) plus an EQUAL and CONSECUTIVE term of a MINIMUM of FORTY THREE (43)
9 MONTHS and a MAXIMUM of ONE HUNDRED NINETY TWO (192) MONTHS in the
10 Nevada Department of Corrections (NDC) for use of a deadly weapon.

11 Count II CONCURRENT with Count I and Defendant to receive 541 days Credit for Time
12 Served. FURTHER, Defendant to submit to a test for the purpose of determining genetic
13 markers.

14 DATED this 18 day of January, 2002.

15
16 
DISTRICT JUDGE 

Carson City, NV 89702
MSEC

**SECRET MAIL
CONFIDENTIAL**

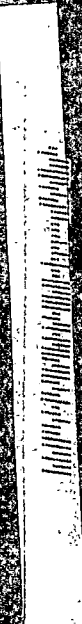
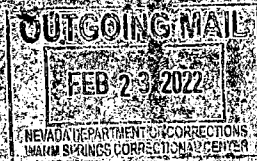
27/6

Confidential

Legal Mail

Clerk of the Court
Eighth Judicial District
Court
of Nevada
200 Lewis Ave.
Las Vegas, NV 89155-1160

24



DAMON CAMPBELL
Petitioner,

VS.

WARDEN CHILDERS,
Respondent.

Case A-22-849848-W
Dept. 24

FILED

MAR 17 2022

Case No. 00C169550 *Shawn A. Thomas*
CLERK OF COURT

PETITIONER'S BRIEF FOR
WRIT OF HABEAS CORPUS

Petitioner challenges the validity of his Judgment of Conviction. On October 13, 2021 a Motion for Modification of Sentence and Jail Time Credits was filed by Petitioner. October 26, 2021 the State filed its Opposition to Defendant's Motion for Modification of Sentence and Jail Time Credits. November 2, 2021 a Motion for Grant of Defendant's Motion for Modification of Sentence was filed by Petitioner. November 8, 2021 an Order Denying Defendant's Motion to Modify Sentence and Jail Time Credits was filed by the court. November 30, 2021 a Motion for Request for Resentencing Hearing was filed by the Petitioner. December 14, 2021 the State's Opposition to Defendants Motion for Request for Resentencing Hearing was filed. December 16, 2021 Petitioner filed a Motion for Request for Resentencing Hearing [supplemental]. December 29, 2021 an order Denying Defendant's Motion For Request for Resentencing Hearing was filed by the court. January 13, 2022 Defendant

filed a Motion for Status Check.

On January 14th, 2002 the District Court sentenced Petitioner as to Count I - Life Without The Possibility of Parole plus an Equal and Consecutive term of Life Without The Possibility of Parole for the use of a deadly weapon; Count II - a Minimum of Forty Three (43) Months and a Maximum of One Hundred Ninety Two (192) Months plus an Equal and Consecutive term of a Minimum of Forty Three (43) Months and a Maximum of One Hundred Ninety Two (192) Months in the Nevada Department of Corrections. Count II Concurrent with Count I. Petitioner was credited 541 days Credit for Time Served. In addition, Petitioner was adjudged to pay \$25.00 Administrative Assessment Fee, \$250.00 DNA Fee and \$2,500.00 Restitution.

Here, Petitioner challenges the number of days credited to Petitioner's sentence. Petitioner originally argued that he was entitled to an additional five (5) days of time credit equalling 546 days. This being that Petitioner initially believed that the credit was tolled up to the date of the court's filing of the Judgment of Conviction which was January 18th, 2002. However, the actual day of sentencing in which the sentence was spoken orally into the record was January 14, 2002. Even so, January 14, 2002 backwards to the actual day of July 22, 2000 is

542 days, not 541. Petitioner was taken into custody and booked into the Clark County Detention Center (CCDC) on the early morning of July 22, 2000. Thus, when counting the actual day of July 22nd, 2000 the following days to the end of the month of July 2000 will total ten (10) days. However, from the basic mathematical format, 22 minus 31 will equal nine (9). An calculator, or the human mind does not think to actually count the number 22 as a whole. The day of July 22nd, 2000 must be counted and credited to Petitioner's credit for time served. Petitioner believes that if this Court were to take the time to calculate the days for July 22, 2000 including counting the day of the 22nd of July, to the day of January 14, 2002, a number of 542 will be the correct sum.

This Court must see that even though the day was not a full twenty-four (24) hour day, but rather, approximately seventeen (17) hours of custody on July 22nd, 2000, it is still credible. See *GARDNER v. FEDERATED DEPT. STORES, INC.*, 907 F.2d 1348, 1350, 1353 (2d Cir. 1990) (remitting award of damages for deprivation of liberty and pain and suffering from \$300,000 to \$200,000 where plaintiff was falsely arrested and accused of theft by security guards in a store, handed over to the police and imprisoned for another six hours.); *MARTINEZ v. PORT AUTHORITY OF NEW YORK & NEW JERSEY*, 445 F.3d 158, 159-61 (2d Cir. 2006) (The plaintiff was detained for approximately nineteen hours,

affirming an award of \$360,000 for a false arrest claim, emotional distress, and loss of liberty.) Liberty as defined by Merriam Webster's Dictionary of Law 2016 "freedom from external (as governmental) restraint... enjoyment of the rights enjoyed by others in a society free of arbitrary or unreasonable limitation or interference 2. freedom from physical restraint."

Petitioner, as a pre-trial detainee whom was presumed "innocent until proven guilty", had a liberty interest no different than the above mentioned individuals. Petitioner's time should be regarded no differently. If citizens can successfully prosecute a case resulting in an award of monetary damages for hours of imprisonment, Petitioner's seventeen hours should possess the same value and respect since at that time under the law he was 'innocent'.

NRS 176.105.(i)(d) states: "... the EXACT AMOUNT of credit granted for time spent in confinement before conviction, if any." (Emphasis added) The Nevada Supreme Court has held that "despite its discretionary language, the purpose of [§] 176.055 is to 'ensure that all time served is credited toward a defendant's ultimate sentence' ¹¹¹ STATE v. SECOND JUDICIAL DIST. COURT ex. rel. COUNTY OF WASHOE, 121 Nev. 413, 116 P.3d 834, 836 (2005); TURNER v. BAKER, 912 F.3d 1236, 1240 (9th Cir. 2019).

See Calendar next page

JULY 2000					
				1	2
3	4	5	6	7	8
9	10	11	12	13	14
15	16	17	18	19	20
21	22 Arrest Date: Day 1	23 Day 2	24 Day 3	25 Day 4	26 Day 5
27 Day 6	28 Day 7	29 Day 8	30 Day 9	31 Day 10	

YEAR OF 2000

August 1st - 31st 31 days

September 1st - 30th 30 days

October 1st - 31st 31 days

November 1st - 30th 30 days

December 1st - 31st 31 days

YEAR OF 2001

JANUARY 1st - DECEMBER 31st

365 days

YEAR OF 2002

January 1st - 14th 14 days

JANUARY 2002					
	1	2	3	4	5
6	7	8	9	10	11
12	13	14 Day of Sentencing	15	16	17
18	19	20	21	22	23
24	25	26	27	28	29
30	31				

This is a miscalculation that leaves Petitioner's sentence invalid. *GONZALEZ v. SHERMAN*, 873 F.3d 763, 764, 769 (9th Cir. 2017) ("...until the miscalculation is corrected there is no valid sentence pursuant to which the defendant may be held in custody ... [769] all days of custody of the defendant ... shall be credited upon his or her term of imprisonment...") Furthermore, this miscalculation must be corrected via a sentencing hearing. This cannot be rewritten as a clerical error pursuant to NRS 176.565. This must be spoken into the record at which the scrivener can then transcribe to Petitioner's Amended Judgment. See *GONZALEZ*, 873 F.3d at 770, 772 ("... the judgment of conviction is an "oral pronouncement" at sentencing By statute, the abstract of judgment must reflect the sentence, including the "[t]otal number of days to be credited" against the term of imprisonment imposed by the sentencing court ... it is especially "important" and indeed necessary, to "correct errors and omissions in abstracts of judgment" because those written documents provide the "authority for carrying the judgment and sentence into effect ... [772], the oral pronouncement controls as it constitutes the actual judgment.")

GROUND TWO

Petitioner challenges the validity of his Judgment of Conviction. Petitioner argues that the court failed to identify each victim owed restitution through oral pronouncement during Petitioner's January 14, 2002 sentencing hearing.

NRS 176.033.3 states: If restitution is appropriate, set an amount of restitution for each victim of the offense and for expenses related to extradition in accordance with NRS 179.225. NRS 176.105(i)(c) states: The adjudication and sentence, including the date of sentence, any term of imprisonment, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary... As expressed in NRS 176.105(i)(c), a "reference to the statute under which defendant is sentenced." The court made reference to only the (Felony) violations applicable to counts I & II, however, failed to state what statute(s) applicable to "the amount and terms of any fine, restitution or administrative assessment". Being that the restitution is a part of the defendant's, a request for correction is appropriate pursuant to NRS 176.105(i)(c) and NRS 176.033.3. See MARTINEZ v. STATE, 115 Nev. 9, 12-13, 974 P.2d 133, 135 (1999) (recognizing that

"restitution under NRS 176.033(1)(c) is a sentencing determination."); SLATE v. STATE, 298 P.3d 1170-71 (2013) (Consistent with these statutory requirements, the Nevada Supreme Court has held that a district court is not allowed to award restitution in uncertain terms...; a judgment of conviction that imposes a restitution obligation but does not specify its terms is not a final judgment...); WHITEHEAD v. STATE, 285 P.3d 1053 (2012).

The court failed to state with specificity as to which victims the restitution is to be paid. In this case there were two victims: Luis Villanueva and Carlos Martinez. Neither are mentioned, nor does the court state what, to whom, or why the restitution has been applied. Thus making Petitioner's judgment of conviction invalid through uncertain terms. Nowhere in the record can the State produce transcribed promulgation by the court as to the identity of the victims owed the restitution to be paid by the Petitioner. GONZALEZ, 873 F.3d 772 (... the oral pronouncement controls as it constitutes the actual judgment.); UNITED STATES v. JOHN DOE, 374 F.3d 851, 854-55 (9th Cir. 2004) (... because the government had failed to identify victims in the case, the order was vacated...

Restitution ordered must be limited by the amount actually lost by the victims, and a court must be able positively to identify each victim to whom restitution is due. The Mandatory Victims Restitution Act of 1996 specifically makes an order of restitution contingent on the identification of specific

victims. 18 U.S.C.S. § 3663 A(c)(1)(B),... [855] The government takes no issue with Doe's analysis of the law on this point. In fact, with respect to the Nevada case, the government suggests that we remand to determine the identities of the victims to whom restitution is due - effectively conceding that it failed to meet its burden. Accordingly, we remand for resentencing as to the Nevada case.) Here, in Doe, the Ninth Circuit has rendered that failure to identify each victim due restitution warrants resentencing to make a judgment final. *BUFFINGTON V. STATE*, 110 Nev. 124, 125; 868 P.2d 643-44 (1994) (The district judge sentenced Buffington to six years in Nevada State Prison and ordered him to pay restitution to the Victims of Crime Fund ("the Fund") for payments the Fund had made... Buffington appealed the Judgment of Conviction ("the first Judgment") to this court, arguing that the restitution portion was invalid because it failed to set a specific amount for "each victim of the offense", as required by statute. This court agreed and remanded to the district court for resentencing "to include a specific amount of restitution for each of appellant's victims".)

Due to the court's failure to identify the victims owed restitution by Petitioner through oral pronouncement during his January 14, 2002 sentencing hearing left the order open and ambiguous rendering the judgment invalid.

APPENDIX

- | | pg. |
|--|----------|
| 1. Buffington v. State, 110 Nev. 124;
868 P.2d 643 (1994) | 11 |
| 2. Gardner v. Federated Dept. Stores, Inc.,
907 F.2d 1348 (2d Cir 1990) | 3 |
| 3. Gonzalez v. Sherman, 873 F.3d 763,
(9th Cir. 2017) | 8, 9, 10 |
| 4. Martinez v. Port Authority of New York
& New Jersey, 445 F.3d 158
(2d Cir. 2006) | 3 |
| 5. Martinez v. State, 115 Nev. 9; 974 P.2d 133
(1999) | 9, 10 |
| 6. Slaate v. State, 298 P.3d 1170 (2013) | 10 |
| 7. State of Nevada v. Second Judicial Dist.
Court ex. rel. County of Washoe,
121 Nev. 413; 116 P.3d 834 (2005) | 4 |
| 8. Turner v. Baker, 912 F.3d 1236 (9th Cir. 2019) | 4 |

9. United States v. John Doe, 374 F.3d 851
(9th Cir. 2004) 10, 11

10. Whitehead v. State, 285 P.3d 1053
(2012) 10

1 PPOW
2

3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 Damon Lamar Campbell,

6 Petitioner,

7 vs.

8 Warden Childers,

9 Respondent,
10

Case No: A-22-849848-W
Department 24

**ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS**

11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on
12 March 17, 2022. The Court has reviewed the Petition and has determined that a response would assist the
13 Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good
14 cause appearing therefore,

15 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,
16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS
17 34.360 to 34.830, inclusive.

18 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's
19 Calendar on the _____ day of _____, 20____, at the hour of
20 _____ o'clock for further proceedings.
21
22
23
24

25 _____
26 District Court Judge
27
28

Heather L. Smith
CLERK OF THE COURT

1 PPOW
2

3 **DISTRICT COURT**
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16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS
17 34.360 to 34.830, inclusive.

18 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's

19 Calendar on the 18 day of May, 2022, at the hour of

20 8:30 am o'clock for further proceedings.
21
22

23 Dated this 20th day of March, 2022

24 *Erika Ballou*

25 District Court Judge **D68 05F 533F CCE6**
26 **Erika Ballou**
27 **District Court Judge**
28

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Damon Campbell, Plaintiff(s)

CASE NO: A-22-849848-W

7 vs.

DEPT. NO. Department 24

8 Warden Childers, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case.

13
14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 3/22/2022

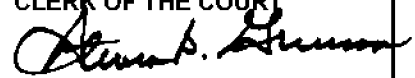
16 Damon Campbell

Damon Cambell #71683

WSCC

P.O. Box 7007

Carson City, NV, 89702



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200 Lewis Avenue
Las Vegas, Nevada 89155-2212
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Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

DAMON LAMAR CAMPBELL,
#1196647
Defendant.

CASE NO: A-22-849848-W
00C169550
DEPT NO: XXIV

**STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS
CORPUS (POST CONVICTION)**

DATE OF HEARING: MAY 18, 2022
TIME OF HEARING: 9:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and moves this Honorable Court for an order denying the Defendant's Petition for Writ of Habeas Corpus (Post Conviction) heretofore filed in the above-entitled matter.

This Response 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.

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

On August 24, 2000, Petitioner Damon Campbell was charged by way of Information with one count of Murder With Use of a Deadly Weapon and two counts of Attempt Murder

1 With Use of a Deadly Weapon. On November 5, 2001, Petitioner's jury trial commenced. On
2 November 13, 2001, the jury returned a verdict of guilty as to the Murder with Use of a Deadly
3 Weapon count and one of the Attempt Murder with Use of a Deadly Weapon counts. The jury
4 returned a verdict of not guilty as to the remaining count for Attempt Murder with Use of
5 Deadly Weapon. Following a penalty hearing, the jury returned a verdict of life without the
6 possibility of parole for the Murder With Use of a Deadly Weapon count.

7 On January 14, 2022, Petitioner was sentenced to the Nevada Department of
8 Corrections as follows: Count 1—life without the possibility of parole, plus an equal and
9 consecutive term of life without the possibility of parole for the use of a deadly weapon; Count
10 2—a minimum of 43 months and a maximum of 192 months, plus an equal and consecutive
11 term of a minimum of 43 months and a maximum of 192 months for the use of a deadly
12 weapon, imposed concurrently to Count 1. Petitioner received 541 days credit for time served.
13 The Judgment of Conviction was filed on January 22, 2002.

14 Petitioner filed Notice of Appeal on January 25, 2002. On July 14, 2003, the Nevada
15 Supreme Court affirmed Petitioner's convictions. Remittitur issued on August 8, 2003.

16 On September 3, 2003, Petitioner filed his first Petition for Writ of Habeas Corpus
17 (Post-Conviction). On October 29, 2003, the State filed its Opposition. On November 5,
18 2003, the district court denied the Petition. The Findings of Fact, Conclusions of Law, and
19 Order were filed on November 13, 2003.

20 On July 23, 2004, Petitioner filed a second Petition for Writ of Habeas Corpus (Post-
21 Conviction). Petitioner filed a supplemental brief on October 25, 2004. On November 17,
22 2004, the State filed its Response. On January 5, 2005, the district court denied Petitioner's
23 second Petition for Writ of Habeas Corpus. The Findings of Fact, Conclusions of Law, and
24 Order were filed on January 26, 2005. On February 28, 2005, Petitioner filed a Notice of
25 Appeal. On July 6, 2006, the Nevada Supreme Court affirmed the district court's denial of
26 Petitioner's second Petition. Remittitur issued on August 2, 2006

27 On October 13, 2021, Petitioner filed a Motion for Modification of Sentence and Jail
28 Time Credits, in which he alleged that at sentencing he did not receive all of the presentence

1 credit for time served to which he believed he was entitled, and that the names of the victims
2 were not identified in his Judgment of Conviction. The State filed its Opposition on October
3 26, 2021. On November 3, 2021, this Court denied Defendant's claim that he did not receive
4 sufficient presentence credit, and determined that 541 days was the correct amount of
5 presentence credit. The Court did determine that the Judgment of Conviction would be
6 amended to reflect that restitution in this case will be paid to Victims of Crime. The Order
7 denying the Motion was filed on November 8, 2021.

8 On November 30, 2021, Petitioner filed a Motion for Request for Resentencing
9 Hearing. On December 14, 2021, the State filed its Opposition. On December 20, 2021, this
10 Court denied the Motion. The Order was filed on December 29, 2021.

11 On March 17, 2022, Petitioner filed the instant Petition for Writ of Habeas Corpus (Post
12 Conviction)("third Petition"), in which he re-raised the claims raised in his Motion for
13 Modification of Sentence and Jail Time Credits. The State responds as follows.

14 **ARGUMENT**

15 **I. THE THIRD PETITION IS PROCEDURALLY BARRED**

16 Petitioner's third Petition is time-barred due to having been filed nearly two decades
17 after the one-year statutory deadline. The third Petition is also successive and an abuse of the
18 writ because it raises claims that were previously available to be raised on direct appeal or in
19 either of Petitioner's previous post-conviction petitions for a writ of habeas corpus.
20 Furthermore, Petitioner fails entirely to address these procedural bars or demonstrate good
21 cause for the tardy filing or for failure to raise the claims earlier. Furthermore, Petitioner
22 cannot establish prejudice because his claims have no merit; this Court has previously and
23 properly denied Petitioner's claim that he is entitled to additional pre-sentence credit for time
24 served.

25 **a. The Third Petition is untimely**

26 Pursuant to NRS 34.726(1), Petitioner was required to file his petition within one year
27 after the issuance of remittitur on direct appeal:

28 Unless there is good cause shown for delay, a petition that
challenges the validity of a judgment or sentence must be filed

1 *within 1 year after entry of the judgment of conviction* or, if an
2 appeal has been taken from the judgment, *within 1 year after the*
3 *Supreme Court issues its remittitur.* For the purposes of this
4 subsection, good cause for delay exists if the petitioner
5 demonstrates to the satisfaction of the court:

6 (emphasis added). “[T]he statutory rules regarding procedural default are mandatory and
7 cannot be ignored when properly raised by the State.” Riker, 121 Nev. at 233, 112 P.3d at
8 1075.

9 Accordingly, the one-year time bar prescribed by NRS 34.726 begins to run from the
10 date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.
11 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v.
12 State, 117 Nev. 860, 873, 34 P.3d 519, 528 (2001) (holding that NRS 34.726 should be
13 construed by its plain meaning).

14 In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002), the Nevada
15 Supreme Court affirmed the rejection of a habeas petition that was filed two days late, pursuant
16 to the “clear and unambiguous” mandatory provisions of NRS 34.726(1). Gonzales reiterated
17 the importance of filing the petition with the district court within the one-year mandate, absent
18 a showing of “good cause” for the delay in filing. Gonzales, 118 Nev. at 593, 590 P.3d at 902.
19 The one-year time bar is therefore strictly construed. In contrast with the short amount of time
20 to file a notice of appeal, a prisoner has an ample full year to file a post-conviction habeas
21 petition, so there is no injustice in a strict application of NRS 34.726(1). Id. at 593, 53 P.3d at
22 903.

23 Here, remittitur issued from Petitioner’s direct appeal on August 8, 2003. Thus,
24 pursuant to NRS 34.726(1), Petitioner had until August 8, 2004 to file a timely post-conviction
25 habeas petition. The instant Petition was filed on March 17, 2022—more than 17 years too
26 late. Accordingly, in the absence of good cause for the delay, summary dismissal of the third
27 Petition is required.

28 **b. The Third Petition is successive**

 The third Petition is also procedurally barred due to being successive. Petitioner has
 filed two prior post-conviction petitions for a writ of habeas corpus. NRS 34.810(2) mandates

1 dismissal of a successive petition if the court finds the failure to raise the claims in a prior
2 post-conviction proceeding to be an abuse of the writ:

3 A second or successive petition *must* be dismissed if the judge or
4 justice determines that it fails to allege new or different grounds
5 for relief and that the prior determination was on the merits or, if
6 new and different grounds are alleged, the judge or justice finds
7 that the failure of the petitioner to assert those grounds in a prior
8 petition constituted an abuse of the writ.

9 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
10 different grounds for relief and the grounds have already been decided on the merits or that
11 allege new or different grounds but a judge or justice finds that the petitioner's failure to assert
12 those grounds in a prior petition would constitute an abuse of the writ. Second or successive
13 petitions will only be decided on the merits if the petitioner can show good cause and
14 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

15 The Nevada Supreme Court has stated: "Without such limitations on the availability of
16 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
17 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
18 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
19 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
20 a careful review of the record, successive petitions may be dismissed based solely on the face
21 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
22 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
23 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991).
24 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

25 Petitioner is abusing the post-conviction process by filing a successive petition raising
26 claims that he could have raised in his first petition. He alleges that there are errors in his
27 Judgment of Conviction. Thus, these claims were available as soon as his Judgment of
28 Conviction was filed on January 22, 2002—twenty years ago. Petitioner has taken twenty
years to bring his claims to this Court's attention. As this claim was previously available to

1 Petitioner many years ago, raising it now is a clear abuse of the process for post-conviction
2 habeas relief.

3 Additionally, Petitioner's claims are waived pursuant to NRS 34.810(1)(b)(2), which
4 requires dismissal of a petition (in the absence of good cause and prejudice) when the
5 petitioner was convicted pursuant to a trial and the petition's claims could have been "[r]aised
6 in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief..." As
7 Petitioner's claims of error in the Judgment of Conviction have been available since 2002, he
8 could have raised these claims on direct appeal or in either of his prior postconviction petitions.
9 Accordingly, without a showing of good cause and prejudice for failing to raise these claims
10 earlier, the third Petition must be dismissed.

11 **c. Petitioner has failed to demonstrate good cause and prejudice to overcome**
12 **the procedural bars to his third Petition**

13 While a showing of good cause and prejudice may overcome the procedural bars,
14 Petitioner makes no such showing. In fact, he fails entirely to address good cause or prejudice.
15 "To establish good cause, appellants *must* show that an impediment external to the defense
16 prevented their compliance with the applicable procedural rule. A qualifying impediment
17 might be shown where the factual or legal basis for a claim was not reasonably available at
18 the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis
19 added). The Court continued, "appellants cannot attempt to manufacture good cause[.]" Id. at
20 621, 81 P.3d at 526. Examples of good cause include interference by State officials and the
21 previous unavailability of a legal or factual basis. See State v. Huebler, 128 Nev. Adv. Op. 19,
22 275 P.3d 91, 95 (2012). In order to establish prejudice, the defendant must show "'not merely
23 that the errors of [the proceedings] created possibility of prejudice, but that they worked to his
24 actual and substantial disadvantage, in affecting the state proceedings with error of
25 constitutional dimensions.'" Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993)
26 (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find
27 good cause there must be a "substantial reason; one that affords a legal excuse." Hathaway v.
28 State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235,

236, 773 P.2d 1229, 1230 (1989)). Clearly, any delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

Importantly, “the petitioner has the burden of pleading and proving specific facts that demonstrate good cause and prejudice to overcome the procedural bars.” State v. Bennett, 119 Nev. 589, 599, 81 P.3d 1, 8 (2003). Petitioner has utterly failed to meet this burden. Accordingly, his procedurally-barred petition must be denied.

d. Application of the procedural bars is mandatory

The Nevada Supreme Court has specifically found that the district court has a duty to consider whether the procedural bars apply to a post-conviction petition and not arbitrarily disregard them. In Riker, the Court held that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory,” and “cannot be ignored when properly raised by the State.” 121 Nev. at 231–33, 112 P.3d at 1074–75. There, the Court reversed the district court’s decision not to bar the petitioner’s untimely and successive petition:

Given the untimely and successive nature of [petitioner’s] petition, the district court had a duty imposed by law to consider whether any or all of [petitioner’s] claims were barred under NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . . [and] the court’s failure to make this determination here constituted an arbitrary and unreasonable exercise of discretion.

Id. at 234, 112 P.3d at 1076. The Court justified this holding by noting that “[t]he necessity for a workable system dictates that there must exist a time when a criminal conviction is final.” Id. at 231, 112 P.3d 1074 (citation omitted); see also State v. Haberstroh, 119 Nev. 173, 180–81, 69 P.3d 676, 681–82 (2003) (holding that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default rules nor can they empower a court to disregard them).

In State v. Greene, the Nevada Supreme Court reaffirmed its prior holdings that the procedural default rules are mandatory when it reversed the district court’s grant of a post-conviction petition for writ of habeas corpus. See State v. Greene, 129 Nev. 559, 565–66, 307

1 P.3d 322, 326 (2013). There, the Court ruled that the petitioner's petition was untimely and
2 successive, and that the petitioner failed to show good cause and actual prejudice. Id.
3 Accordingly, the Court reversed the district court and ordered the petitioner's petition
4 dismissed pursuant to the procedural bars. Id. at 567, 307 P.3d at 327.

5 **II. PETITIONER IS NOT ENTITLED TO MODIFICATION OF HIS** 6 **JUDGMENT OF CONVICTION**

7 **a. Petitioner received the correct amount of presentence credit**

8 Petitioner's claim that he is entitled to one additional day of presentence credit is
9 without merit. Petitioner states that he was taken into custody in this case on July 22, 2000.
10 Petition, at 3. Petitioner was then sentenced on January 14, 2002. By the State's calculation,
11 the time period between July 22, 2000 and January 14, 2002 is 541 days. This calculation is
12 supported by the Pre-Sentence Investigation Report ("PSI"), which calculates Petitioner's
13 credit for time served as 534 days, due to having the sentencing date as January 7, 2002. As
14 Petitioner was in fact sentenced on January 14, 2002, an additional seven days was added to
15 the calculation in the PSI, bringing the total days served to 541. Accordingly, Petitioner is not
16 entitled to more than 541 days credit for time served, as this Court recognized when it denied
17 Petitioner's Motion for Modification of Sentence and Jail Time Credits.

18 **b. Petitioner's Judgment of Conviction is not invalid for not identifying the** 19 **names of the victims**

20 Petitioner's contention that his Judgment of Conviction is invalid due to not identifying
21 the victims and specific restitution amounts is without merit. This Court has previously
22 indicated the Judgment of Conviction will be amended to state that the restitution in this case
23 is owed to Victims of Crime. Such an amendment is a mere correction of an oversight, as
24 permitted under NRS 176.565. This Court has the authority to correct such oversights at any
25 time. "Clerical mistakes in judgments, orders or other parts of the record and errors in the
26 record arising from oversight or omission may be corrected by the court at any time and after
27 such notice, if any, as the court orders." NRS 176.565.

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CONCLUSION

For the foregoing reasons, the State respectfully requests that Petitioner's Petition for Writ of Habeas Corpus (Post Conviction) be denied.

DATED this _____ day of April, 2022.

Respectfully submitted,

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

BY /s/ KAREN MISHLER
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 5th day of April, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

DAMON LAMAR CAMPBELL, BAC #71683
WARM SPRINGS CORRECTIONAL CENTER
P. O. BOX 7007
CARSON CITY, NEVADA 89702

BY /s/ J.HAYES _____
Secretary for the District Attorney's Office

00F12572X/KM/jh/MVU

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Heather J. Smith
CLERK OF THE COURT

1 Damon Campbell # 71683

2 Warm Springs Correctional Center

3 3301 East Fifth Street- PO Box 7007

4 Carson City, Nevada, 89702

5
6 DEFENDANT, In Propria Persona

7
8
9
10 IN THE EIGHTH JUDICIAL DISTRICT COURT OF
11 THE STATE OF NEVADA IN AND OF THE
12 COUNTY OF CLARK

13 DAMON CAMPBELL

14 Plaintiff,

15 Vs.

CASE No. A-22-849848-W

16 WARDEN CHILDERS

DEPT. No. XXIV

17 Defendant.

Dkt. No. _____

18 _____ /
19
20
21 **MOTION FOR APPOINTMENT OF COUNSEL PURSUANT TO N.R.S. 34.750**

22
23
24
25 Petitioner Damon Campbell, pursuant to NRS 34.750 (1) (2), request this Court
26 to appoint counsel to represent him in this habeas petition for the following reasons:

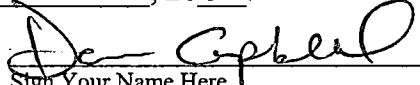
- 27 1. Plaintiff if not able to afford counsel, see the motion to proceed in forma pauperis and
28 affidavit in support filed with this Court.

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APR 04 2022

- 1 2. The issues involved in this case are complex.
- 2 3. The issues involved in this case will require investigation, which the petitioner cannot do
- 3 while, confined in prison.
- 4 4. Petitioner has a very limited knowledge of the law.
- 5

6 DATED this 24th day of March, 2022.

7 
Sign Your Name Here
8 Damon Campbell 71683
Print Your Name Here NDOC#
9 P.O. Box 7007
10 Warm Springs Correctional Center
11 Carson City, Nevada 89702
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Damon L. Campbell #11683
P.O. Box 7007
Carson City, NV 89702
WSCC

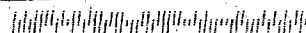
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Clerk of the Court
Eighth Judicial District Court
of Nevada
200 Lewis Ave.
Las Vegas, NV 89155-1160

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CLERK OF THE COURT



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1 IN THE EIGHTH JUDICIAL DISTRICT COURT OF
2 THE STATE OF NEVADA IN AND FOR THE
3 COUNTY OF CLARK
4
5
6

7 DAMON CAMPBELL,

8 Petitioner,

Case No. A-22-849848-W

9 vs.

Dept. No. XXIV

10 WARDEN CHILDERS,

11 Respondent,

12 **ORDER APPOINTING COUNSEL N.R.S. 34.750**

13 **THIS MATTER** came before the court on the written Motion for Appointment of Counsel, the
14 petitioner herein having submitted a Petition for Writ of Habeas Corpus, NRS. 34.370 et. Seq. The court
15 finds Petitioner to be indigent, and good cause appearing,

16 IT IS SO ORDERED that the below-indicated is appointed by the Court to represent Petitioner in
17 further proceeding:

18 _____ Carson County Public Defender

19 _____ Washoe County Public Defender

20 _____ Nevada State Public Defender

21 _____, Esq., Attorney at Law, is hereby appointed to represent
22 Petitioner. His/her fees shall be paid by the State of Nevada from the fund appropriate to the Office of
23 the State Public Defender, NRS. 34.750 (2).
24

25 DATED this _____ day of _____, 20____.

26 _____
27 DISTRICT JUDGE
28

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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
5/10/2022 1:29 PM
Steven D. Grierson
CLERK OF THE COURT



Damon Campbell, Plaintiff(s)
vs.
Warden Childers, Defendant(s)

Case No.: A-22-849848-W
Department 24

NOTICE OF HEARING

Please be advised that the Petitioner's Reply to State's Response to Defendant's Petition for Writ of Habeas Corpus (Post Conviction) in the above-entitled matter is set for hearing as follows:

Date: June 13, 2022
Time: 9:30 AM
Location: RJC Courtroom 12C
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

Heaven & Son
CLERK OF THE COURT

Damon Campbell # 71683

Warm Springs Correctional Center

P.O. Box 7007

Carson City, Nevada 89702

Petitioner In Proper Person

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA IN AND FOR THE COUNTY OF CLARK

DAMON CAMPBELL

Petitioner,

Case No.: A-22-849848-W

v.

Dept. No. XXIV

WARDEN CHILDERS,

(Hearing Requested)

Respondent.

PETITIONER'S REPLY TO STATE'S RESPONSE TO
DEFENDANT'S PETITION FOR WRIT OF HABEAS
CORPUS (POST CONVICTION)

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APR 19 2022

CLERK OF THE COURT

ARGUMENT

I.

Petitioner's writ of habeas corpus for correction of illegal sentence under Due Process Clause cannot be procedurally barred. CLARK v. STATE, 131 Nev. 1264 (quoting EDWARDS v. STATE, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996)) (This court has also explained that "[a] motion to correct an illegal sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at any time."). "... it is the sentencing court that has the inherent authority to correct its sentence... Thus, the time limits and other restrictions with respect to a post-conviction relief do not apply to a Motion to Modify a Sentence." PASSANISI v. STATE, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992); TOWNSEND v. BURKE, 68 S.Ct. 1252, 1255, 92 L.Ed. 1690 (1948) (quotations omitted).

Petitioner filed a Motion to Modify Sentence in which the State conceded that an amended judgment as to the restitution should be made and this Court agreed, ordering an amended judgment. However, after two (2) months Petitioner had not received an amended judgment after his Request For Resentencing was denied on December 29, 2021. Petitioner then filed a Status Check on January 4, 2022, which went unanswered or addressed. Leaving Petitioner forced to file his Petition For Writ of Habeas Corpus for modification of sentence, which is the proper vehicle.

Petitioner has satisfied the burden of demonstrating the

improper arguments of procedurally barred application by Respondent by asserting factual citation of authorities that demonstrates the inadequacy of the Respondent's opposition.

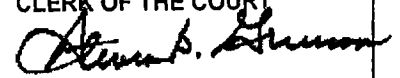
II.

As contended in Petitioner's Brief, if calculated from the day of Petitioner's arrest the correct days credit time serve will result in 542 days. However, the State, in their Opposition to Defendant's Motion for Modification of Sentence and Jail Time Credits, (p.2, line 4) (attached herein) the State claims that Petitioner actually "got an extra day" of credit time served. So here the State and the Petitioner have something in common. They both agree that the calculation of 541 days is in fact incorrect. Therefore, whether this Court decides that the State is correct and a day must subtracted equalling 540 days, or decides the Petitioner's calculation is correct and should add a day to equal 542 days, there is, in agreeance by the State, an error that must be corrected. "...all days of custody of the defendant... shall be credited upon his or her term of imprisonment..." (The result is the total duration of time which a convicted person will have to spend in prison. Any erroneous assessment of credits therefore results in the defendant spending more or fewer days in prison than the sentence should have required.) GONZALEZ v. SHERMAN, 873 F.3d 763, 769 (9th Cir. 2017); TURNER v. BAKER, 912 F.3d 1236, 1240 (9th Cir. 2019). And thus must be corrected through oral pronouncement as directed through clearly established law. CLARK v. STATE, 131 Nev. 1264 (2015); FAST v. STATE, 134 Nev. 936; 2018 Nev. App: Unpub. LEXIS 767 (2018); GONZALEZ v. SHERMAN, 873

F.3d 763 (9th Cir. 2017); TURNER v. BAKER, 912 F.3d 1236 (9th Cir. 2019); HILL v. WAMPLER, 80 L.Ed. 1283, 298 U.S. 460 (1936); BERMAN v. U.S., 302 U.S. 211, 58 S.Ct. 164, 82 L.Ed. 204 (1937).

However, in the State's response the State refers to a Pre-Sentence Investigation Report ("PSI") that calculated Petitioner's credit time served as 534 days, but 7 days were added to sum 541 days due to the day of sentencing changing from January 7th to January 14th, 2002. The State fails to produce this documentation. In addition, the State claims their calculation of "the time period between July 22, 2000 and January 14, 2002" is 541 days. Petitioner does not nor has ever disputed that the days "between" July 22, 2000 and January 14, 2002 are 541 days. But in fact, when counting the "actual" day of July 22, 2000, which once Petitioner's liberty was restrained and for a period of approximately 17-18 hours of July 22, 2000, this is technically a credible day to be accounted for. Counting backwards from the day of sentencing to July 22nd, 2000 the number will come to 542. Thus, both the PSI's calculation from which the State and Court followed was inaccurate causing an inaccurate application at sentencing. And being that the omission is attributable to judicial consideration or discretion, the courts are universal in holding under black lettered law that under statute and clearly establish case law without this amendment Petitioner's judgment of conviction is invalid. CLARK v. STATE, 131 Nev. 1264 (2015).

· Lastly, Respondent has failed to cite a single case where any court has ever held otherwise, and intentionally deflects from the actual issues at hand.



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MARC DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006955
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-

DAMON LAMAR CAMPBELL,
#1196647

Defendant.

CASE NO: 00C169550

DEPT NO: XXIV

**STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR MODIFICATION OF
SENTENCE AND JAIL TIME CREDITS**

DATE OF HEARING: 11/03/2021
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MARC DIGIACOMO, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion For Modification Of Sentence And Jail Time Credits.

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.

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1 POINTS AND AUTHORITIES

2 Pursuant to his Judgement of conviction, Defendant was sentenced on January 14, 2002
3 with 541 days credit time served. He claims he was entitled to 546 days as of January 18,
4 2002. It seems that Defendant got an extra day.

5 "The defendant begins to serve the sentence when a judgment of conviction is signed
6 by the judge and entered by the clerk." Staley v. State, 106 Nev. 75, 79, 787 P.2d 396, 398
7 (1990)(*overruled on other grounds by* Hodges v. State, 119 Nev. 479, 484, 78 P.3d 67, 70
8 (2003)). The district court's authority to modify a sentence that a defendant has already begun
9 to serve is based on the due process rights of the defendant, and "not every mistake or error
10 which occurs during sentencing gives rise to a due process violation." State v. District Court,
11 100 Nev. 90, 97, 677 P.2d 1044, 1048-49 (1984); Staley, 106 Nev. at 79. In fact, if a sentence
12 is within statutory limits, the court cannot modify the sentence unless based upon materially
13 untrue assumptions or mistakes which work to the extreme detriment of the defendant. Staley,
14 106 Nev. at 79-80. While Defendant claims there were mistakes in the PSI, he does not
15 identify the mistakes. Moreover, he fails to provide any evidence of any mistake.

16 The only legal claim is that the names of the victims were not identified in the Judgment
17 of conviction.¹ The State does not have the PSI, but the two victims were Alberto Martinez
18 (deceased) and Carlos Villanueva (surviving). The PSI should identify for whom the
19 restitution was directed. The State has no objection if the Court wants to update the JOC to
20 reflect the victims entitled to the restitution.

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28 _____
¹ He also clearly does not understand what joint and several liability is.

1 CONCLUSION

2 Based upon the foregoing, Defendant's motion should be denied with the exception of
3 identifying the victims entitled to restitution.

4
5 DATED this 26th day of October, 2021.

6 Respectfully submitted,

7 STEVEN B. WOLFSON
8 Clark County District Attorney
9 Nevada Bar #001565

10 BY /s/ Marc DiGiacomo
11 MARC DIGIACOMO
12 Chief Deputy District Attorney
13 Nevada Bar #006955
14
15

16 CERTIFICATE OF MAILING

17 I hereby certify that service of the above and foregoing was made this 26th day
18 of October, 2021 by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

19 Damon Campbell #71683
20 Warm Springs Correctional Center
21 3301 E. 5th Street
22 Carson City, NV 89701

23 BY: /s/ Stephanie Johnson
24 Secretary for the District Attorney's Office
25
26
27

28 00F12572X/MD/sj/MVU

III.

Clerical errors defined under N.R.C.P. Rule 60 II.

CLERICAL ERRORS state: A clerical error is a mistake in writing or copying; as more specifically applied to judgment and decrees, a clerical error is a mistake or omission by a clerk, counsel, judge, or printer which is not the result of the exercise of the judicial function. In other words, a clerical error is one which cannot reasonably be attributed to the exercise of judicial consideration or discretion.

During Petitioner's sentencing hearing January 14, 2002 the court failed to distinguish which victim was to receive restitution. And how much each victim was owed from the \$2,500 restitution order. Therefore, the court failed to allocate the original judgment. See Reporter's Transcript of Sentencing, January 14, 2002. (Attached herein). Being that the omission is attributable to judicial consideration or discretion, this cannot be held as clerical error. In MARTINEZ v. STATE, the court recognized that restitution under NRS 176.033(1)(c) is a sentencing determination. *Id.* 115 Nev. at 12-13 (Nev. 1999). The failure to determine which victim was owed which specific amount left the judgment ambiguous rendering it unfinal and invalid, thus void. The only cure for these mistakes is for this Court to correct and make the record speak the truth through oral pronouncement.

The State has already conceded that there is an error as to Petitioner's restitution portion of his judgment of conviction. See State's Opposition to Defendant's Motion for Modification of Sentence And Jail Time Credits (p.2, lines 16-20) (attached herein). On November 3, 2021, this Honorable Court directed an amended judgment of conviction to be prepared by District Attorney Agnes M. Botelho. See November 3, 2021 Court Minutes and Order (attached herein). However, if the correction is not orally pronounced into the record the judgment will continue to be non-existing and incorrect, continuing to render it invalid. "The court speaks through its judgment, and not through any other medium. It is not within the power of a judge by instructions to a clerk to make some other medium the authentic organ of his will." HILL v. WAMPLER, 80 L.Ed. 1283, 298 U.S. 460, 465 (1936) "The only sentence known to the law is the sentence or judgment entered upon the records of the court... But the judgment imports verity when collaterally assailed. Until corrected in a direct proceeding, it says what it was meant to say, and this by an irrebuttable presumption. In any collateral inquiry, a court will close its ears to a suggestion that the sentenced entered in the minutes is something other than the authentic expression of the sentence of the judge." Id. 298 U.S. at 464; BERMAN v. UNITED STATES, 302 U.S. 211, 212, 58 S.Ct. 164, 166, 82 L.Ed. 204 (1937) (reaffirming "Final judgment in a criminal case means sentence. The sentence is the judgment."); FAST v. STATE, 2018 Nev. App.

Unpub. LEXIS 767; 134 Nev. 936 (2018) (The judgment of conviction reflects the sentence orally announced... Fast contends the aggregated term of imprisonment contains a typographical error, while the State contends the error lies in the sentence structure.)

It is especially important and necessary to correct errors and omissions in abstracts of judgment, because those written documents provide that the authority for carrying the judgment and sentence into effect. *GONZALEZ v. SHERMAN*, 873 F.3d at 771 (9th Cir. 2017); *TURNER v. BAKER*, 912 F.3d at 1239 (9th Cir. 2019) (quoting *GONZALEZ*, 873 F.3d at 772. "A scrivener's error occurs when there is a discrepancy between the court's oral pronouncement of the judgment and the written record of that judgment in the minute order or in the abstract of judgment.").

Currently, the Nevada Dept. of Corrections is removing monies from Petitioner's account for restitution in regards to case no. C169550 paid to Parole and Probation. Petitioner is not on Parole or Probation, nor owes the Parole and Probation Division. Nothing on the record speaks of Victims of Crime, Parole and Probation, or any other entity or persons. (See copy of Petitioner's Inmate Account Transcript, pg. 2 - attached herein). Here, there is no discrepancy between the court's oral pronouncement and the written record in regards to Petitioner restitution order as substantiated by the record. Transcript of Petitioner's sentencing hearing January 14, 2002 and judgment of

conviction. "... the judgment of conviction did not "speak the determination." "CLARK, 131 Nev. 1264 (quoting CHANNEL 13 OF LAS VEGAS, INC. v. ETINGER, 94 Nev. 578, 580, 583 P.2d 1085, 1086 (1978)).

Therefore, whether "void", "invalid" or "unfinal", the only cure is to be resentenced through oral pronouncement. BUFFINGTON v. STATE, 110 Nev. at 125, 868 P.2d at 643-44; UNITED STATES v. JOHN DOE, 374 F.3d at 854-55 (9th Cir. 2004).

It is obvious that the State is ignoring clearly established law. Both facts are undisputed, these rules are black lettered law. The courts are universal in holding these mistakes render a judgment of conviction's authority facially invalid. And Respondent has failed to cite a single case where any court has ever held otherwise. The State's representatives are held to a higher standard in enforcing and obeying the law by oath, and now requests and expects this Honorable Court to do the same. Petitioner prays that this Court applies the law as it is written.

CONCLUSION

Petitioner's judgment of conviction on its face is invalid. If the court does not speak it into the record it fails to exist. Here, the record shows that the names of the victim(s) or Victims of Crime Fund or Parole and Probation were never identified as to being owed restitution by Petitioner.

Furthermore, the court failed to allocate for which victim, Martinez or Villanueva or both. And that the Division of Victims of Crime or Parole and Probation paid the amount of \$2,500 to the above named persons. This Court must close this ambiguity with specificity by stating to which victim(s) are owed restitution or strike the restitution part of Petitioner's sentence as a whole since the State failed to produce any factual documentation to substantiate their claims.

Counting backward from Petitioner's sentencing date of January 14, 2002 to arrest date July 22, 2000, the amount of 542 is the correct calculation.

Lastly, Petitioner's petition for modification of correction of sentence cannot be analyzed under time bar standards and restrictions. Correction of credits time served and restitution are a part of sentencing and must be addressed through a motion to modify and can only be corrected by this Court through oral pronouncement.

1/14/02 C169550

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FILED

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JAN 28 10 03 AM '02

CASE NO. C169550

DEPT. NO. XV

ORIGINAL *Sally W. Loehrer*
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

- o O o -

THE STATE OF NEVADA,

Plaintiff,

vs.

DAMON LAMAR CAMPBELL,

Defendant.

REPORTER'S TRANSCRIPT

OF

SENTENCING

BEFORE THE HON. SALLY LOEHRER, DISTRICT COURT JUDGE

MONDAY, JANUARY 14, 2002
8:30 A.M.

APPEARANCES:

For the State:

SANDRA DIGIACOMO, ESQ.
Deputy District Attorney

For the Defendant:

STANLEY WALTON, ESQ.

Reported by: Mary Beth Cook
CCR No. 268, RPR

CE05

MARY BETH COOK, CCR 268 (702) 455-4288

RECEIVED

JAN 28 2002

COUNTY CLERK

1 LAS VEGAS, CLARK COUNTY, NEVADA, MON., JAN. 14, 2002

2 8:30 A.M.

3 -oOo-

4 P R O C E E D I N G S

5
6 THE COURT: Campbell. This is on for
7 sentencing, I believe. The record will reflect the
8 presence of the State through Ms. DiGiacomo.
9 Mr. Campbell is present in custody with
10 Mr. Walton.

11 This is on for sentencing. Is there any
12 legal cause or reason why we should not go forward
13 with judgment and sentencing?

14 MR. WALTON: No, Your Honor.

15 THE COURT: By virtue of the jury's
16 verdict, sir, the Court hereby adjudges you guilty
17 of Count I, murder with use of a deadly weapon, and
18 Count II attempt murder with use of a deadly
19 weapon.

20 Does the Department have anything to add
21 to its written report?

22 P & P OFFICER: No, Your Honor.

23 THE COURT: State wish to argue?

24 MS. DIGIACOMO: No, Your Honor. The
25 State would submit it.

1 THE COURT: Mr. Campbell, before the
2 Court imposes sentencing, both you and your
3 attorney have the right to address the Court. If
4 there's anything you would like to state in
5 mitigation of sentence, this is the time to do so.

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Mr. Walton.

8 MR. WALTON: Thank you, Judge. Judge,
9 I'd just simply like to ask the Court for two
10 things. One, the jail credit would be seven more
11 days from what we have in the PSI, so it would be
12 541 days. I don't think there would be any
13 objection to that.

14 P & P OFFICER: That's correct, Your
15 Honor.

16 MR. WALTON: And, No. 2, Judge, we would
17 ask if the Court would consider running Count II
18 concurrent. Life without is life without. Just in
19 the event it may be commuted at some point in time
20 to have that done if he's not successful in
21 appeal. This Court knows the defendant gets an
22 automatic appeal in the first degree murder
23 conviction.

24 THE COURT: I assess a \$25
25 administrative assessment, \$250 DNA analysis fee

1 and assess \$2500 in restitution to be paid jointly
2 and severally with the codefendant. And as to
3 Count I, first degree murder with use of a deadly
4 weapon, I sentence you to life imprisonment without
5 the possibility of parole. On Count II, the
6 attempt murder with use of a deadly weapon, I
7 sentence you to a minimum of 43, maximum of 192
8 months at the Nevada Department of Prisons with an
9 equal and consecutive 43 to 192 for use of a deadly
10 weapon. Count II will run concurrent with
11 Count I. You will receive credit for time served
12 in the amount of 541 days.

13 I was told or read in the advance sheets
14 somewhere that you can only do one life term, so I
15 don't know.

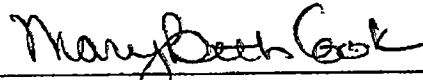
16 MS. DiGIACOMO: Your Honor, it's my
17 understanding with use of a deadly weapon it's an
18 equal and consecutive life without.

19 THE COURT: That was my understanding
20 also, but if you look at the recommendation it's
21 simply life without the possibility of parole, but
22 the statute says you have to have an equal and
23 consecutive life without the use -- without the
24 possibility of parole so let's just do that and
25 we'll see how they type it up because I believe

1 that it's a Supreme Court opinion that says you can
2 only do life once.

3 -oOo-

4 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT.

5 

6 Mary Beth Cook, CCR No. 268, RPR

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 03, 2021

00C169550

The State of Nevada vs Damon O Campbell

November 03, 2021 8:30 AM Motion to Modify Sentence

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Botelho, Agnes M Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Agnes Botelho, Esq. present via Bluejeans video conference. Deft. not present.

COURT STATED IT'S FINDINGS, ORDERED, Motion For Modification of Sentence and Jail Time Credits DENIED as to credits; 541 DAYS was the correct amount of credit Deft. received; DIRECTED an Amended Judgment of Conviction be prepared to reflect Restitution be paid to Victims of Crimes; advised Ms. Botelho to prepare an order.

NDC

CLERK'S NOTE: This Minute Order was mailed to: Damon O Campbell #71683, WSCC, P.O.Box 7007, Warm Springs, NV, 89702.//rh11.04.21

PRINT DATE: 11/04/2021

Page 1 of 1 Minutes Date: November 03, 2021

Heather S. Smith
CLERK OF THE COURT

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 AGNES M. BOTELHO
6 Chief Deputy District Attorney
7 Nevada Bar #11064
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 DAMON LAMAR CAMPBELL,
14 #1196647
15 Defendant.

CASE NO: 00C169550

DEPT NO: XXIV

16 **ORDER DENYING DEFENDANT'S MOTION TO MODIFY SENTENCE AND**
17 **JAIL TIME CREDITS**

18 DATE OF HEARING: November 03, 2021

19 TIME OF HEARING: 8:30 A.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 3rd day of November, 2021, the Defendant not being present, IN PROPER PERSON, the
22 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through AGNES
23 M. BOTELHO, Chief Deputy District Attorney, and the Court having heard the arguments of
24 counsel, based on the pleadings and good cause appearing therefor,

25 ///

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Modify Sentence and Jail
2 Time Credits, shall be, and it is DENIED; 541 DAYS was the correct amount of credit
3 Defendant received; DIRECTED an Amended Judgment of Conviction be prepared to reflect
4 Restitution be paid to Victims of Crimes.

5
6 Dated this 8th day of November, 2021

7 

8 STEVEN B. WOLFSON
9 Clark County District Attorney
10 Nevada Bar #001565

9C9 AD0 2EDA FF13
Erika Ballou
District Court Judge

11 BY /s/ AGNES M. BOTELHO
12 AGNES M. BOTELHO
13 Chief Deputy District Attorney
Nevada Bar #11064

14 CERTIFICATE OF SERVICE

15 I certify that on the 8th day of November, 2021, I mailed a copy of the foregoing Order
16 to:

17 DAMON LAMAR CAMPBELL, BAC #71683
18 WARM SPRINGS CORRECTIONAL CENTER
19 P. O. BOX 7007
20 WARM SPRINGS, NEVADA 89702

21 BY /s/ J. HAYES
22 Secretary for the District Attorney's Office

23
24
25
26
27 00F12572X/jh/MVU
28

Daily Transaction Summary (0071683 - DAMON CAMPBELL cont.): December 01, 2018 - December 31, 2018

12/01/2018 \$0.00
 No Activity
 12/31/2018 \$0.00

Savings

Date	Reference Number	Amount	Balance	Loc Code
12/01/2018			\$400.00	
No Activity				
12/31/2018			\$400.00	

Holds - Court Case Active and Time of Report

Date Held	Hold Type	Notes	Amount
No Activity			

Department Summary

Department Opening Balance: \$0.00

DOC Sanction Type	Reference Number	Document Number	V Document Number	DOC Sanction Date	Paid To
Medical Copay	06/06/2018	10000204886		6/6/2018	NDOC - Medical

Date	Description	Check Document Number	Amount	Balance
------	-------------	-----------------------	--------	---------

12/01/2018			Opening Balance:	\$0.00
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12/07/2018 12:23:24 PM	New		\$8.00	\$8.00
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12/07/2018 12:23:24 PM	Offender Payment		(\$8.00)	\$0.00
------------------------	------------------	--	----------	--------

12/31/2018			Closing Balance:	\$0.00
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DOC Sanction Type	Reference Number	Document Number	V Document Number	DOC Sanction Date	Paid To
Medical Copay	06/27/2018	10000204886		6/27/2018	Inmate Welfare Fund

Date	Description	Check Document Number	Amount	Balance
------	-------------	-----------------------	--------	---------

12/01/2018			Opening Balance:	\$0.00
------------	--	--	------------------	--------

12/07/2018 03:53:45 PM	New		\$8.00	\$8.00
------------------------	-----	--	--------	--------

12/31/2018			Closing Balance:	\$8.00
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Department Closing Balance: \$8.00

Remaining Disposition - Review as of Date and Time of Report

Description	Paid To	Period To Curr	Max Per Period	Ordered	Initial Payment	Paid To Curr	Outside Source	Total Paid	Total Remaining
Restitution - C169550	Clark County CH	\$0.00	N/A	\$275.00	N	\$0.00	\$0.00	\$0.00	\$275.00
Restitution - C169550	Parole and Probation	\$0.00	N/A	\$2,500.00	Y	\$0.00	\$146.98	\$146.98	\$2,353.02

Daily Transaction Summary: December 01, 2018 - December 31, 2018

Page 1

Offender Number 0071683
 Offender Name: CAMPBELL, DAMON L.
 Account Status: Open

Institution: NNCC
 Housing Facility: U5

Living Unit: C
 Cell: 16
 Bed: B

Date	Transaction Type	Payer / Paid To	Reference Number	Deposit# / Check#	Amount	Balance	Loc Code
12/01/2018						\$9.24	
12/07/2018 12:23:24 PM	Medical Copay	NDOC - Medical			(\$8.00)	\$1.24	NNCC
12/10/2018 04:06:56 PM	Commissary		1709;101992053		(\$0.94)	\$0.30	NNCC
12/15/2018 07:00:19 AM	Keefe	LATANYA SMITH		9900012384	\$50.00	\$50.30	NNCC
12/15/2018 07:00:19 AM	Trust 2				(\$50.00)	\$0.30	NNCC
12/17/2018 04:52:35 AM	Trust 2				\$42.44	\$42.74	NNCC
12/17/2018 04:52:35 AM	Commissary		1709;101998078		(\$42.44)	\$0.30	NNCC
12/18/2018 01:27:09 PM	Commissary Refund		1709;100015231		\$0.94	\$1.24	NNCC
12/18/2018 01:27:09 PM	Trust 2				(\$0.94)	\$0.30	NNCC
12/19/2018 03:42:57 PM	Trust 2				(\$8.00)	\$8.30	NNCC
12/19/2018 03:42:57 PM	Commissary		1709;102004369		(\$8.00)	\$0.30	NNCC
12/29/2018 07:00:16 AM	Keefe	PAULA NUTLEY			\$95.00	\$95.30	NNCC
12/29/2018 07:00:16 AM	Trust 2				(\$95.00)	\$0.30	NNCC
12/31/2018 11:27:38 AM	Trust 2				\$20.00	\$20.30	NNCC
12/31/2018 11:27:38 AM	Commissary		1709;102020203		(\$20.00)	\$0.30	NNCC
12/31/2018						\$0.30	

Date	Reference Number	Amount	Balance	Loc Code
12/01/2018			\$0.00	
12/15/2018 07:00:19 AM		\$50.00	\$50.00	NNCC
12/17/2018 04:52:35 AM		(\$42.44)	\$7.56	NNCC
12/18/2018 01:27:09 PM		\$0.94	\$8.50	NNCC
12/19/2018 03:42:57 PM		(\$8.00)	\$0.50	NNCC
12/29/2018 07:00:16 AM		\$95.00	\$95.50	NNCC
12/31/2018 11:27:38 AM		(\$20.00)	\$75.50	NNCC
12/31/2018			\$75.50	

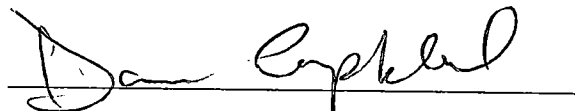
Date	Reference Number	Amount	Balance	Loc Code
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CERTIFICATE OF SERVICE BY MAIL

I, Damon Campbell, hereby certify, pursuant to NRCP 5(b),
that I mailed a true and correct copy of the foregoing, "Reply to Respondents
Response to Defendant's Petition For Writ of Habeas Corpus"
By placing it in the Warm Springs Correctional Center Law Library, First-class postage,
fully pre-paid, addressed as follows:

Chief Deputy Dist. Atty.
KAREN MISHLER
200 Lewis Ave
Las Vegas, NV. 89155-2212

Dated this 14th day of April, 20 22.



Warm Springs Correctional Center

P.O. Box 7007

Carson City, Nevada 89702

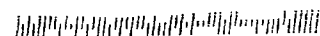
Damon Campbell #71683
P.O. BOX 7007
Carson City, NV. 89702
WSCC

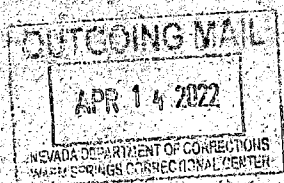
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RECEIVED
APR 19 2022
CLERK OF THE COURT

Clerk of the Court
Eighth Judicial District Court
of Nevada
200 Lewis Ave.
Las Vegas, NV. 89155-1160

7116
Legal
Confidential





Heather L. Smith
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF CLARK

DAMON CAMPBELL,

Petitioner,

Case No. A-22-849848-W

vs.

Dept. No. XXIV

WARDEN CHILDERS,

Respondent,

ORDER APPOINTING COUNSEL N.R.S. 34.750

THIS MATTER came before the court on the written Motion for Appointment of Counsel, the petitioner herein having submitted a Petition for Writ of Habeas Corpus, NRS. 34.370 et. Seq. The court finds Petitioner to be indigent, and good cause appearing,

IT IS SO ORDERED that the below-indicated is appointed by the Court to represent Petitioner in further proceeding:

____ Carson County Public Defender

____ Washoe County Public Defender

____ Nevada State Public Defender

Monique McNeil, Esq., Attorney at Law, is hereby appointed to represent Petitioner. His/her fees shall be paid by the State of Nevada from the fund appropriate to the Office of the State Public Defender, NRS. 34.750 (2).

DATED this _____ day of _____, 2022

Erika Ballou
DISTRICT JUDGE

758 D00 3B27 61A0
Erika Ballou
District Court Judge

WARM SPRINGS Law Library No. 13

RECEIVED

APR 04 2022

CLERK OF THE COURT

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Damon Campbell, Plaintiff(s)

CASE NO: A-22-849848-W

7 vs.

DEPT. NO. Department 24

8 Warden Childers, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case.

13
14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 5/12/2022

16 Damon Campbell

#71683

WSCC

P.O. Box 7007

Carson City, NV, 89702

Steven D. Grierson

MCAVOY AMAYA & REVERO, ATTORNEYS
MICHAEL J. MCAVOYAMAYA, ESQ. (14082)
TIMOTHY E. REVERO, ESQ (14603)
400 S. 4th Street, Suite 500
Las Vegas, NV 89101
Telephone: 702.685.0879
Facsimile: 702.995.7137
Mike@mrlawlv.com
Attorneys for Defendant

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

DAMON CAMPBELL,

Defendants.

CASE NO.: A-22-849848-W
DEPT. NO.: XXIV


**DEFENDANTS' SUBSTITUTION OF
ATTORNEY**

Defendant, DAMON CAMPBELL, hereby substitutes MICHAEL J. MCAVOYAMAYA,
Esq. and MCAVOY AMAYA & REVERO ATTORNEYS as my RETAINED attorney of record
in place and stead of MONIQUE MCNEILL, ESQ.

DATED: the ^{15th} ~~2nd~~ day of ^{June} ~~May~~, 2022

I consent to the above substitution.

DATED: the 18 day of May, 2022




MONIQUE MCNEILL, ESQ.
Nevada Bar No.: 9862

I am duly admitted to practice in this District Court.

Above substitution accepted

DATED: the 25 day of May, 2022



MICHAEL J. MCAVOYAMAYA, ESQ.

Nevada Bar No.: 14082
TIMOTHY E. REVERO, ESQ.
Nevada Bar No.: 14603
Retained Counsel for Defendants

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Heather S. Hume

CLERK OF THE COURT

1 **ORDR**

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

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7 Damon Campbell,
8 Plaintiff(s),

CASE NO. A-22-849848-W

9 v.

DEPT NO. XXIV

10 Warden Childers,
11 Defendant(s).

12
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14 **Order for Voluntary Dismissal**

15
16 This matter having come before the Court on Damon Campbell's Petition for Writ of
17 Habeas Corpus, Mr. Campbell being represented by counsel, Michael McAvoyAmaya, and
18 the State of Nevada being represented by Deputy District Attorney, Seleste Wyse, on June 22,
19 2022, to set a briefing schedule.

20 Mr. Campbell, through counsel, represented that due to the fact that an Amended
21 Judgment of Conviction (JOC) having been filed in this matter, and the issue now being one
22 of challenging the Amended JOC rather than anything cognizable in a Petition for Writ of
23 Habeas Corpus, this matter was being voluntarily dismissed.

24 NRS 34.724(1) explains the limitations for the types of claims cognizable in post-
25 convictions writs of habeas corpus. Post-conviction writs are limited to "claims that the
26 conviction was obtained, or that the sentence was imposed, in violation of the Constitution of
27 the United States or the Constitution or laws of this State" or to "claims that the time the person
28 has served pursuant to the judgment of conviction has been improperly computed." (See NRS

1 34.724(1).)

2 **IT IS HEREBY ORDERED** that Mr. Campbell's Petition for Writ of Habeas Corpus
3 is **VOLUNTARILY DISMISSED**.

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8 Dated this 22nd day of June, 2022

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11 66B 0C3 1683 3F13
12 Erika Ballou
13 District Court Judge
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If indicated below, a copy of the foregoing was also

Chapri Wright

Chapri Wright
Judicial Executive Assistant

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **Damon Campbell, Plaintiff(s)**

CASE NO: A-22-849848-W

7 **vs.**

DEPT. NO. Department 24

8 **Warden Childers, 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 Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 **Service Date: 6/22/2022**

15 **Michael McAvoy-Amaya**

mike@mrlawlv.com

16 **Karen Mishler**

Karen.Mishler@clarkcountyda.com



NEOJ

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAMON CAMPBELL,

Petitioner,

Case No: A-22-849848-W

Dept. No: XXIV

vs.

WARDEN CHILDERS,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on June 22, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on June 27, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 27 day of June 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Damon Campbell # 71683
P.O. Box 7007
Carson City, NV 89702

Michael McAvoyamaya, Esq.
400 S. 4th St., Ste 500
Las Vegas, NV 89101

Timothy E. Revero, Esq.
400 S. 4th St., Ste 500
Las Vegas, NV 89101

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

Heather S. Hume

CLERK OF THE COURT

1 **ORDR**

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6
7 Damon Campbell,
8 Plaintiff(s),

CASE NO. A-22-849848-W

9 v.

DEPT NO. XXIV

10 Warden Childers,
11 Defendant(s).

12
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14 **Order for Voluntary Dismissal**

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16 This matter having come before the Court on Damon Campbell's Petition for Writ of
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19 2022, to set a briefing schedule.

20 Mr. Campbell, through counsel, represented that due to the fact that an Amended
21 Judgment of Conviction (JOC) having been filed in this matter, and the issue now being one
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26 conviction was obtained, or that the sentence was imposed, in violation of the Constitution of
27 the United States or the Constitution or laws of this State" or to "claims that the time the person
28 has served pursuant to the judgment of conviction has been improperly computed." (See NRS

1 34.724(1).)

2 **IT IS HEREBY ORDERED** that Mr. Campbell's Petition for Writ of Habeas Corpus
3 is **VOLUNTARILY DISMISSED**.

4
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8 Dated this 22nd day of June, 2022

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11 66B 0C3 1683 3F13
12 Erika Ballou
13 District Court Judge
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1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Damon Campbell, Plaintiff(s) CASE NO: A-22-849848-W
7 vs. DEPT. NO. Department 24
8 Warden Childers, 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 Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 6/22/2022

15 Michael McAvoy-Amaya mike@mrlawlv.com

16 Karen Mishler Karen.Mishler@clarkcountyda.com
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 11, 2022

A-22-849848-W Damon Campbell, Plaintiff(s)
vs.
Warden Childers, Defendant(s)

May 11, 2022 9:30 AM Appointment of Counsel

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: McNeill, Monique A. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Ms. McNeill CONFIRMED as counsel; indicated she hadn't received the file yet; requested a status check. COURT SO ORDERED.

NDC

06.08.2022 9:30 AM STATUS CHECK: BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

June 08, 2022

A-22-849848-W Damon Campbell, Plaintiff(s)
vs.
Warden Childers, Defendant(s)

June 08, 2022 9:30 AM Status Check

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Mcavoyamaya, Michael J. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. McAvoyAmaya indicated there needs to be an Amended Judgment Of Conviction in 00C169550 from November 3, 2021 Minute Order before a briefing schedule ca be set. COURT ORDERED, matter CONTINUED; hearing scheduled on June 13, 2022 VACATED.

NDC

CONTINUED TO 06.22.2022 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

June 22, 2022

A-22-849848-W Damon Campbell, Plaintiff(s)
vs.
Warden Childers, Defendant(s)

June 22, 2022 9:30 AM Status Check

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Mcavoyamaya, Michael J. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. McAvoyamaya indicated he would file a Motion in the underlying case challenging restitution; further indicated Petition for Writ of Habeas Corpus was voluntarily dismissed. COURT ORDERED, Petition for Writ of Habeas Corpus VOLUNTARILY DISMISSED; advised it would prepare the order.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated March 28, 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 one volume with pages numbered 1 through 108.

DAMON LAMAR CAMPBELL,

Plaintiff(s),

vs.

WARDEN CHILDERS,

Defendant(s),

Case No: A-22-849848-W
Related Case 00C169550
Dept. No: XVIII

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 11 day of April 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk