

No. 86406

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

Troy White,

Appellant,

v.

State of Nevada, et al.,

Respondents.

On Appeal from the Order Denying Petition
for Writ of Habeas Corpus (Post-Conviction)
Eighth Judicial District, Clark County (CR A-22-859004-W)
Honorable Bitia Yeager, District Court Judge

Motion to consolidate appeals

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Troy White requests his appeal in case no: 86406 be consolidated with the appeal in *Coca v. Williams*, case no: 85519, pursuant to NRAP 3(b)(2) (“the appeals may be joined or consolidated by the court upon its own motion or upon motion of a party”).

Petitioner Coca filed an opening brief to this Court appealing the denial of his second and successive petition for writ of habeas corpus on March 17, 2023. Coca’s appeal argues he has demonstrated good cause and prejudice to overcome the procedural bars to his petition because his post-conviction attorney provided ineffective assistance during Coca’s first habeas proceedings. As such, Coca asks this Court to overrule its prior decision in *Brown v. McDaniel*, 130 Nev. 565 (2014), which held the ineffective assistance of post-conviction counsel in a non-capital habeas case does not provide good cause to excuse the procedural bars, even when it comes to trial-counsel-ineffectiveness claims.

The appeal in this case, *Troy v. State*, will include, along with other issues, the same argument—that post-conviction counsel’s ineffectiveness provides good cause and prejudice to excuse procedural bars to a petition for writ of habeas corpus in a non-capital habeas case.

The appeal will ask this Court to overrule its prior decision in *Brown v. McDaniel*, 130 Nev. 565 (2014). Therefore, White requests his appeal be consolidated with *Coca v. Williams*, case no: 85519.

Dated April 27, 2023.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ *Laura Barrera*

Laura Barrera
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2023, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include:
Alexander G. Chen, Aaron D. Ford, and Jonathan VanBoskerck.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing by First Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

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/s/ Kaitlyn O'Hearn

An Employee of the
Federal Public Defender