

IN THE SUPREME COURT OF THE STATE OF NEVADA

MACK MASON,
Appellant(s),

vs.

FERNANDIES FRAZIER, WARDEN;
NNCC; AND THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Jun 13 2023 09:29 AM
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-22-862342-W

Docket No: 86550

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
MACK MASON #69060,
PROPER PERSON
P.O. BOX 7000
CARSON CITY, NV 89702

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

A-22-862342-W Mack Mason, Plaintiff(s) vs. Warden Frzier, NNCC, Defendant(s)

I N D E X

VOLUME: **PAGE NUMBER:**

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I N D E X

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FILED

DEC 09 2022

Ann L. Blum
CLERK OF COURT

1 Mack Mason, # 69060
2 Northern Nevada Correctional Center
3 P.O. Box 7000
4 Carson City, Nevada 89702

5 PETITIONER IN PROPER PERSON

6 IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF
7 NEVADA IN AND FOR THE COUNTY OF Clark

8
9
10 Mack Mason

11 Petitioner,

Case No.: **A-22-862342-W**

12 V.

Dept. No. **Dept. 12**

13 Warden Frazier UNCC
State of Nevada Et.al.

14 Respondent

15
16
17 **PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)**

18 **INSTRUCTIONS:**

19
20 (1) This petition must be legibly handwritten or typewritten, signed by the
petitioner and verified.

21 (2) Additional pages are not permitted except where noted or with respect to the
22 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
23 submitted in the form of a separate memorandum.

24 (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
25 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.

CLERK OF THE COURT

DEC 9 5 2022

RECEIVED

1 (5) You must include all grounds or claims for relief which you may have
2 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.

3 (6) You must allege specific facts supporting the claims in the petition you file
4 seeking relief from any conviction or sentence. Failure to allege specific facts
5 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
6 the attorney-client privilege for the proceeding in which you claim your counsel was
ineffective.

7 (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.
8 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
9 the original prosecutor if you are challenging your original conviction or sentence.
Copies must conform in all particulars to the original submitted for filing.

10
11 **PETITION**

12
13 1. Name of institution and county in which you are presently
14 imprisoned or where and how you are presently restrained of your
15 liberty: Northern Nevada Correctional Center
16

17
18 2. Name and location of court which entered the judgment of
19 conviction under attack:

20 Eighth Judicial District Court
21

22
23 3. Date of judgment of conviction: 1999
24

25 4. Case number: C16-1426
26

27 5. (a) Length of sentence: 2 LWOP + 30 years
28

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

3
4 6. Are you presently serving a sentence for a conviction
5 other than the conviction under attack in this motion?

6 Yes NA No NA

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

9
10 7. Nature of offense involved in conviction being
11 challenged: NA

12
13
14 8. What was your plea? (check one)

15 (a) Not guilty NA

16 (b) Guilty NA

17 (c) Guilty but mentally ill NA

18 (d) Nolo contendere NA

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: NA

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 NA

2 (b) Judge without a jury NA

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

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

7 Yes _____ No _____

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

10 (a) Name of court: _____

11 (b) Case number or citation: _____

12 (c) Result: _____

13
14
15 (d) Date of result: _____

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 _____ No _____

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

3 (a) (1) Name of court: _____

4 (2) Nature of proceeding: _____

5 _____
6 (3) Grounds raised: _____
7 _____
8 _____

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

11 (5) Result: _____
12 _____

13 (6) Date of result: _____

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

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

19 (1) Name of court: _____

20 (2) Nature of proceeding: _____

21 (3) Grounds raised: _____
22 _____
23 _____

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

26 (5) Result: _____

27 (6) Date of result: _____
28 _____

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 _____ No _____

13 Citation or date of decision: _____

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 (e) If you did not appeal from the adverse action on any
22 petition, application or motion, explain briefly why you did not.
23 (You must relate specific facts in response to this question.
24 Your response may be included on paper which is 8 1/2 by 11
25 inches attached to the petition. Your response may not exceed
26 five handwritten or typewritten pages in length.)
27
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 (You must relate specific facts in response to this
14 question. Your response may be included on paper which is 8 1/2
15 by 11 inches attached to the petition. Your response may not
16 exceed five handwritten or typewritten pages in length.)
17
18
19
20

21 18. If any of the grounds listed in Nos. 23(a), (b), (c) and
22 (d), or listed on any additional pages you have attached, were
23 not previously presented in any other court, state or federal,
24 list briefly what grounds were not so presented, and give your
25 reasons for not presenting them. (You must relate specific facts
26 in response to this question. Your response may be included on
27 paper which is 8 1/2 by 11 inches attached to the petition. Your
28

1 response may not exceed five handwritten or typewritten pages in
2 length.)

3
4
5
6
7 19. Are you filing this petition more than 1 year following
8 the filing of the judgment of conviction or the filing of a
9 decision on direct appeal? If so, state briefly the reasons for
10 the delay. (You must relate specific facts in response to this
11 question. Your response may be included on paper which is 8 1/2
12 by 11 inches attached to the petition. Your response may not
13 exceed five handwritten or typewritten pages in length.)
14
15
16

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

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

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

Yes _____ No _____

23. (a) GROUND ONE: I AM BEING DENIED DUE PROCESS AND EQUAL PROTECTION GUARANTEED BY THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AS DESCRIBED IN THE SUPPORTING FACTS HEREUNDER.

23. (a) SUPPORTING FACTS (tell your story briefly without citing cases or law): I AM BEING DENIED DUE PROCESS AND EQUAL PROTECTION AS GUARANTEED BY THE UNITED STATES CONSTITUTION, BECAUSE I HAVE A 'PRESENTENCE INVESTIGATION REPORT' (HEREAFTER "P.S.I.") ASSOCIATED WITH MY NEVADA CRIMINAL CASE C116-1426, WHICH IS NOT BASED ON ANY "STANDARDS" FOUNDED UPON "OBJECTIVE CRITERIA".

THE 'DIVISION OF PAROLE AND PROBATION' IN NEVADA (HEREAFTER "P+P") HAS RELIED IN WHOLE OR IN PART UPON — AND/OR CONTINUES TO RELY IN WHOLE OR IN PART UPON — MY P.S.I. WHEN MAKING IT'S DETERMINATIONS IN MY CASE. 'NEVADA REVISED STATUTE' (HEREAFTER "N.R.S.") 213-10988 COMMANDED (BY USING THE TERM "SHALL") P+P TO ADOPT BY REGULATION, "STANDARDS" BASED UPON "OBJECTIVE CRITERIA". AS OF 2016, THE ONLY REGULATION THAT COMPLIES WITH THIS COMMAND IS NAC 213-580, WHICH ONLY GOES SO FAR AS TO PROMISE THAT P+P WILL CONDUCT EVALUATIONS USING "STANDARDS" TO BE OTHERWISE ADOPTED. THE PROBLEM IS THAT NAC 213-580 IS NOT ITSELF A "REGULATION" THAT EMBODIES "STANDARDS". IT IS NOTHING MORE THAN A BLIND PROMISE THAT P+P WILL CREATE SOME "STANDARD" OUTSIDE OF NAC 213-580 THAT THE REGULATION DOES NOT ITSELF IDENTIFY. (- lines 15-24 IS THE DICTA OF JUDGE TAO, NEVADA COURT OF APPEALS, IN JOSHUA RAY VASQUEZ V STATE OF NEVADA, No. 79409-COA FILED AUGUST 12 2020).

BY ISSUING SENTENCING RECOMMENDATIONS IN MY CASE THAT FOLLOWED NO STANDARD SET FORTH IN ANY REGULATION, P+P MADE

IT'S RECOMMENDATIONS IN WHAT IS, VIRTUALLY BY DEFINITION, AN ARBITRARY AND CAPRICIOUS MANNER AND WITHOUT DUE NOTICE TO ME AS A THEN CRIMINAL DEFENDANT FACING THE PROSPECT OF A PRISON SENTENCE. THE U.S. SUPREME COURT HAS EMPHASIZED THIS FUNDAMENTAL DUE PROCESS ISSUE OF "WHAT HAPPENS WHEN AN EXECUTIVE BRANCH AGENCY ACTS WITHOUT ANY LAW OR REGULATION TO CONSTRAIN IT" — TAO J. CONCURRING WITH GIBBONS C.J. AND BULLA J. IN JOSHUA RAY VASQUEZ v NEVADA NO. 79409-COA (2020); See ALSO UNITED STATES v HAVIS, 907F.3d 439, 450 (6TH CIR 2018) (THUPAR, J., CONCURRING), quoting SESSIONS v DIMAYA, — U.S. —, 138 S.Ct. 1204, 1223 (2018) (GORSUCH, J., CONCURRING IN PART AND CONCURRING IN THE JUDGEMENT). IN VASQUEZ *supra*, THE NEVADA COURT OF APPEALS ORDERED THE JUDGEMENT OF THE DISTRICT COURT VACATED SINCE THE DISTRICT COURT ABUSED IT'S DISCRETION AT SENTENCING BY FAILING TO RULE ON HIS OBJECTIONS TO THE P.S.I.

IN PETITIONER'S CASE, THE DISTRICT COURT USED THE INFORMATION CONTAINED IN THE P.S.I. IN WHOLE OR IN PART AS THE BASIS FOR THE SENTENCE IT IMPOSED. HOWEVER, THE P.S.I. CONTAINED MULTIPLE INACCURACIES THAT WORKED TO THE EXTREME DETRIMENT OF THE PETITIONER. IT HAS SINCE BEEN STATED IN VASQUEZ *supra* BY JUDGE TAO THAT, "...I WOULD SUGGEST THAT SENTENCING COURTS IN THIS STATE IGNORE ANY P.S.I. ISSUED BY P+P WHEN MAKING SENTENCING DECISIONS, AT RISK OF HAVING ANY SENTENCE THAT RELIES UPON SUCH P.S.I.'S DEEMED INVALID AND REVERSED". *Id.*

"WHILE SOME LEVEL OF RETROACTIVITY CAN BE TOLERATED
IN CIVIL CASES, EX POST FACTO PROSECUTION AND PUNISHMENT
ARE CONSTITUTIONALLY PROHIBITED IN CRIMINAL CASES".

- JUDGE TAO, IN VASQUEZ v NEVADA NO. 79409 C.O.A (2020), at v,
citing COLLINS v YOUNGBLOOD, 497 U.S. 37 (1990).

AFTER THE FACT OR RETROACTIVE "EX POST FACTO" PUNISHMENT
CONTINUES TO OCCUR IN PETITIONER MASON
AS A RESULT OF HIS P.S.I. NOT BEING BASED ON ANY "STANDARDS"
FOUNDED UPON "OBJECTIVE CRITERIA". WHEN THE "STANDARDS" ARE
WHATEVER THE APPLICABLE PUBLIC OFFICIAL SUBJECTIVELY DEEMS
THEM TO BE AT ANY GIVEN TIME — THERE ARE NO STANDARDS.
PETITIONER MASON HAS BEEN DENIED DUE PROCESS OF LAW
TO WHICH HE IS CONSTITUTIONALLY ENTITLED. JUDGE TAO IN
HIS CONCURRING OPINION IN JOSHUA RAY VASQUEZ v NEVADA (2020)
SUPRA AT THE END OF HIS POINT IV. STATED:

"...I HARBOR SERIOUS DOUBT THAT THE NEVADA CONSTITUTION
PERMITS ANY KIND OF STATE ANALOGUE TO IT THAT PERMITS
NEVADA STATE AGENCIES TO MAKE UP RULES ON THE FLY,
ESPECIALLY IN CRIMINAL CASES". Id.

THE NEVADA COURT OF APPEALS IN VASQUEZ CONCLUDED THAT THE
DISTRICT COURT ABUSED IT'S DISCRETION BY SENTENCING HIM
WITHOUT DUE CONSIDERATION TO HIS OBJECTIONS TO THE P.S.I..
IT ORDERED VASQUEZ'S SENTENCE BE VACATED AND HIS CASE
REMANDED FOR RESENTENCING. THE SAME MUST APPLY TO MASON.

23. (b) GROUND TWO: I AM BEING DENIED DUE PROCESS AND EQUAL PROTECTION GUARANTEED BY THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AS DESCRIBED IN THE SUPPORTING FACTS HEREUNDER.

23. (b) SUPPORTING FACTS (tell your story briefly without citing cases or law): I AM BEING DENIED DUE PROCESS AND EQUAL PROTECTION AS GUARANTEED BY THE UNITED STATES CONSTITUTION, BECAUSE I HAVE A 'PRESENTENCE INVESTIGATION REPORT' (HEREAFTER "P.S.I.") ASSOCIATED WITH MY NEVADA CRIMINAL CASE C16-1426, WHICH IS NOT BASED ON ANY "STANDARDS" FOUNDED UPON "OBJECTIVE CRITERIA" AND AS SUCH IMPROPERLY AFFECTS MY CUSTODY, CLASSIFICATION, PROGRAMMING AND OTHER MATERIAL CONDITIONS OF MY CONFINEMENT IN THE NEVADA DEPARTMENT OF CORRECTIONS.

I HEREBY INCORPORATE INTO THIS GROUND BY REFERENCE ALL OF MY SUPPORTING FACTS, LEGAL ARGUMENT, AND OTHER CONTENT WHICH COMPRISES GROUND ONE IN THIS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION).

MY P.S.I. MATERIALLY AFFECTS MANY ASPECTS OF MY INCARCERATION. IT IS THEREFORE CRITICALLY IMPORTANT THAT IT CONTAINS ACCURATE INFORMATION, AND IS BASED UPON SOUND CRITERIA THAT ARE OBJECTIVE AND FOUNDED ON "STANDARDS" THAT ARE IN COMPLIANCE WITH DUE PROCESS AND APPLICABLE LAWS AND REGULATIONS. MY P.S.I. IS NOT SO GROUNDED. AS SUCH IT NEGATIVELY AFFECTS MY PAROLE ELIGIBILITY AND MORE BECAUSE IT IS ULTIMATELY AN INACCURATE DOCUMENT AND THEREFORE MISLEADING. A NEW, ACCURATE P.S.I. AND RESENTENCING MUST OCCUR.

23. (c) GROUND THREE: I AM BEING SUBJECTED TO CRUEL AND UNUSUAL
PUNISHMENT PROHIBITED BY THE EIGHTH AMENDMENT TO THE
UNITED STATES CONSTITUTION.

23. (c) SUPPORTING FACTS (tell your story briefly without citing
cases or law): INACCURACIES AND SUBJECTIVE CONTENT CONTAINED
IN MY P.S.I. HAVE BEEN AND CONTINUE TO BE USED AGAINST ME
BY PRISON INMATES AND OTHERS, TO MY DETRIMENT. IT HAS AND
DOES EXPOSE ME TO THE RISK OF HARM AND EVEN DEATH IN THE
PRISON ENVIRONMENT. THE COURT DID NOT SENTENCE ME TO
SUFFER PHYSICAL HARM OR DEATH. I CAN TESTIFY TO INSTANCES
WHERE I HAVE BEEN THREATENED WITH HARM BY PRISON INMATES,
AND RIDICULE BY PRISON STAFF.

THE NEVADA DEPARTMENT OF CORRECTIONS ISSUED A MEMORANDUM
DATED OCTOBER 27TH 2022 CONCERNING INMATE P.S.I.'S WHICH
IS CLEARLY RELEVANT TO THE ISSUES I RAISE IN THIS GROUND.
See, EXHIBIT-1.

A NEW P.S.I. THAT IS ACCURATE MUST BE CAUSED TO REPLACE
MY CURRENT P.S.I., AND A NEW SENTENCING HEARING MUST
OCCUR IN MY CRIMINAL CASE.

CONCLUSION

P+P WAS NOT IN COMPLIANCE WITH IT'S STATUTORY MANDATE WHEN IT CREATED THE P.S.I. WHICH WAS USED IN WHOLE OR IN PART BY THE DISTRICT COURT JUDGE WHEN DETERMINING THE SENTENCE IMPOSED IN PETITIONER'S CASE. THEREFORE PETITIONER REQUESTS THAT THE COURT ORDER P+P TO ISSUE A REPLACEMENT P.S.I. THAT DOES NOT INCLUDE SUBJECTIVE RECOMMENDATIONS REGARDING HOW P+P THINKS CRIMINAL DEFENDANTS OUGHT TO BE SENTENCED BY THE DISTRICT COURT IN ANY PARTICULAR CASE. INSTEAD, PETITIONER ASKS THAT THE COURT ORDER P+P TO ISSUE A REPLACEMENT P.S.I. IN HIS CASE THAT IS IN COMPLIANCE WITH N.R.S. 213.10988 WHEREIN THE LEGISLATURE COMMANDED P+P TO ADOPT BY REGULATION, "STANDARDS" BASED UPON "OBJECTIVE CRITERIA". PETITIONER MUST BE RE-SENTENCED ACCORDINGLY.

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

3
4 EXECUTED at NORTHERN NEVADA CORRECTIONAL CENTER
5 on the day of the month of NOV of the
6 year 2022

7
8 Mack Mason

9 Signature of petitioner

10 Mack Mason

11 P.O. Box 7000

12 Carson City, NV. 89702

13 Address

14
15 Signature of attorney (if any)

16
17 Attorney for petitioner

18
19
20
21 Address

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VERIFICATION

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

Mack Mason

Petitioner

Attorney for petitioner

AFFIRMATION

PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding PETITION FOR WRIT
OF HABEAS CORPUS (POST-CONVICTION)

(Title of Document)

Does not contain the social security number of any person

Mack Mason

Signature

11/20/22

Date

Mack Mason

Print name

PETITIONER IN PRO-PER

Title

CERTIFICATE OF SERVICE BY MAIL

I, Mack Mason, hereby certify pursuant to
N.R.C.P. 5(b), that on this 20 day of the month of Nov
of the year 2022, I mailed a true and correct copy of the
foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Warden Frazier NCC

Respondent prison or jail official

P.O. Box 7000

Carson City, NV. 89702

Address

Attorney General's Office

100 North Carson Street

Carson City, Nevada 89701-4717


Clark County

District Attorney of County of Conviction

200 Lewis Ave

Las Vegas, NV. 89155

Address



Signature of Petitioner

Northern Nevada Correctional Center

P.O. Box 7000

Carson City, Nevada 89702

EXHIBIT-1

DEPARTMENT OF CORRECTIONS NEVADA

MEMORANDUM DATED OCTOBER 27TH, 2022

SUBJECT: POSSESSION OF PRE-SENTENCE REPORTS

Steve Sisolak
Governor

William Gittere
Acting Director

Fernandeis A. Frazier,
Warden Northern
Nevada Correctional
Center



STATE OF NEVADA
Department of Corrections

Northern Administration
5500 Snyder Ave.
Carson City, NV 89701
(775) 977-5500

Southern Administration
3955 W. Russell Rd.
Las Vegas, NV 89118
(725) 216-6000

MEMORANDUM

Date: October 27, 2022

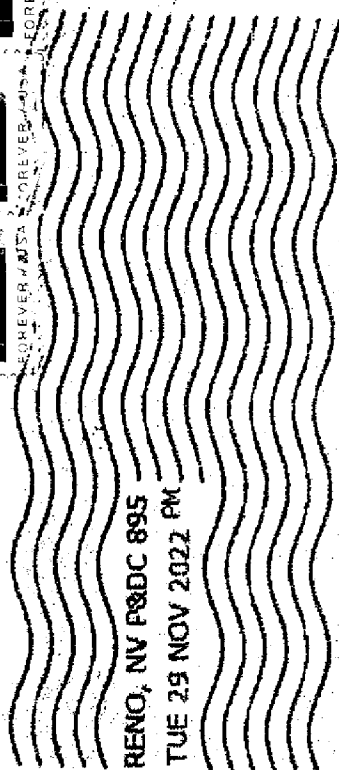
To: NNCC/SCC Offenders

Subject: Possession of Pre-Sentence Report

In accordance with AR 568, "Offenders will not be provided copies of their Pre-Sentence Investigation Reports due to sensitive information contained in them." As a means of addressing this issue, individuals who currently have these items in their possession are required to turn the items into their assigned Case Worker no later than November 13, 2022. Offenders who are found in possession of said items after that date will receive a Notice of Charge(s) MJ26 Possession of Contraband along with the item being confiscated at that time.

Fernandeis A. Frazier 10/27/22
Fernandeis A. Frazier, Warden Date
Northern Nevada Correctional Center-
Stewart Conservation Camp
Nevada Department of Corrections

Mack Mason 69066
P.O. Box 7006
C.C., NV. 89702



8th District Court
200 Lewis Ave
Las Vegas, NV 89155

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

MACK MASON,

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-22-862342-W
(99C161426)
DEPT NO: XII

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

DATE OF HEARING: MARCH 15, 2023
TIME OF HEARING: 2:14 PM

THIS CAUSE having been decided before the Honorable Michelle Leavitt, District Judge, pursuant to a Minute Order issued on the 15th of March, 2023, the Petitioner not being present, the Respondent, also not present, being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through Alexander Chen, Chief Deputy District Attorney, and the Court having considered the procedural history of this matter, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

The instant petition is untimely, having been filed over nineteen years subsequent to the remittitur issued affirming the petitioner's judgment of conviction on September 3, 2002. Petitioner has failed to establish or even address in the instant petition good cause and prejudice for filing the untimely petition.

1 **CONCLUSIONS OF LAW**

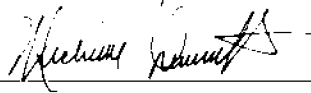
2 The State is not required to respond to this untimely petition because Petitioner has not
3 shown good cause and prejudice as to why this court should entertain his petition over nineteen
4 years after remittitur issued.

5 The instant petition is also a successive petition, as this is the fourth Petition for Writ
6 of Habeas Corpus (Post-Conviction) filed by petitioner. The instant petition contends that his
7 PSI prepared in this matter is not based on any standards founded upon objective criteria.
8 Clearly, the instant claim could have been brought up in one of petitioner's three previous
9 petitions, and therefore, is an abuse of the writ.

10 **ORDER**

11 **THEREFORE, IT IS HEREBY ORDERED** that the Petition for Post-Conviction Relief
12 shall be, and it is, hereby denied.

13 Dated this 5th day of April, 2023

14 
15 _____

16 STEVEN B. WOLFSON
17 Clark County District Attorney
Nevada Bar #1565

D08 D61 930C 9F01
Michelle Leavitt
District Court Judge

18 BY /s/ ALEXANDER CHEN
19 ALEXANDER CHEN
20 Chief Deputy District Attorney
Nevada Bar #010539

21
22
23 ///

24 ///

25 ///

26 ///

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28 ///

1 CERTIFICATE OF MAILING

2 I hereby certify that service of the above and foregoing was made this 5th day of April
3 2023, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

4 MACK MASON, BAC #69060
5 NORTHERN NEVADA CORRECTIONAL CENTER
6 P. O. BOX 7000
CARSON CITY, NEVADA 89702

7
8 BY /s/ Janet Hayes
Secretary for the District Attorney's Office

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28 99F07347X/AC/hb/jh/MVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Mack Mason, Plaintiff(s)

CASE NO: A-22-862342-W

7 vs.

DEPT. NO. Department 12

8 Warden Frzier, NNCC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case. The filer has been
14 notified to serve all parties by traditional means.



1 NEFF

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

4
5 MACK MASON,

6 Petitioner,

Case No: A-22-862342-W

Dept No: XII

7 vs.

8 WARDEN FRZIER, NNCC,

9 Respondent,

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

10
11 **PLEASE TAKE NOTICE** that on April 5, 2023, the court entered a decision or order in this matter, a true
12 and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 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 April 12, 2023.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 12 day of April 2023, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:
22 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23
24 ☒ The United States mail addressed as follows:
Mack Mason # 69060
P.O. Box 7000
25 Carson City, NV 89702

26
27 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #010539
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

MACK MASON,

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-22-862342-W
(99C161426)
DEPT NO: XII

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

DATE OF HEARING: MARCH 15, 2023
TIME OF HEARING: 2:14 PM

THIS CAUSE having been decided before the Honorable Michelle Leavitt, District Judge, pursuant to a Minute Order issued on the 15th of March, 2023, the Petitioner not being present, the Respondent, also not present, being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through Alexander Chen, Chief Deputy District Attorney, and the Court having considered the procedural history of this matter, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

The instant petition is untimely, having been filed over nineteen years subsequent to the remittitur issued affirming the petitioner's judgment of conviction on September 3, 2002. Petitioner has failed to establish or even address in the instant petition good cause and prejudice for filing the untimely petition.

1 **CONCLUSIONS OF LAW**

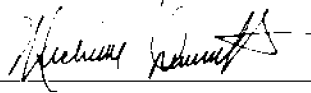
2 The State is not required to respond to this untimely petition because Petitioner has not
3 shown good cause and prejudice as to why this court should entertain his petition over nineteen
4 years after remittitur issued.

5 The instant petition is also a successive petition, as this is the fourth Petition for Writ
6 of Habeas Corpus (Post-Conviction) filed by petitioner. The instant petition contends that his
7 PSI prepared in this matter is not based on any standards founded upon objective criteria.
8 Clearly, the instant claim could have been brought up in one of petitioner's three previous
9 petitions, and therefore, is an abuse of the writ.

10 **ORDER**

11 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
12 shall be, and it is, hereby denied.

13 Dated this 5th day of April, 2023

14 
15 _____

16 STEVEN B. WOLFSON
17 Clark County District Attorney
Nevada Bar #1565

D08 D61 930C 9F01
Michelle Leavitt
District Court Judge

18 BY /s/ ALEXANDER CHEN
19 ALEXANDER CHEN
20 Chief Deputy District Attorney
Nevada Bar #010539

21
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23 ///

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Mack Mason, Plaintiff(s)

CASE NO: A-22-862342-W

7 vs.

DEPT. NO. Department 12

8 Warden Frzier, NNCC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case. The filer has been
14 notified to serve all parties by traditional means.
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Heather J. Hemin
CLERK OF THE COURT

Mack Mason
(Name)
69060
(I.D. No.)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, Nevada 89702

IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Clark

Mack Mason
Petitioner/Plaintiff,
vs.
State of Nevada
Respondent/Defendant

Case No.: A-22-862342-W
(99C161426)
Dept. No. XII

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that I, Mack Mason appeal the
Judgment / Order entered on the 5th day of April, 20 23 by this
court.

Dated this 27th day of April, 20 23.

Mack Mason
(Signature)

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5(b), I hereby certify that I am the Defendant named herein and that on this 27th day of April, 2023 I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the following:

Clark County District Attorney

200 Lewis Ave

Las Vegas, NV. 89155

Mark Mason

(Signature)

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any persons.

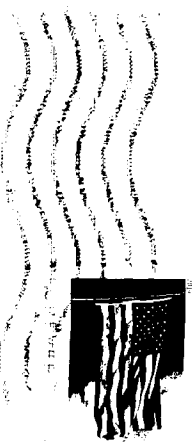
April 27, 2023
(Date)

Mark Mason

(Signature)

Mack Mason 69860
P.O. Box 7800
C.C., NV. 89702

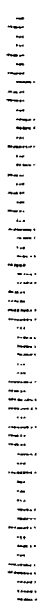
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02 MAY 2000 PM 2 L



Clerk
Eight District Ct
200 Lewis Ave
Las Vegas, NV. 89155

LEGAL MAIL
CONFIDENTIAL

0010188300



LEGAL MAIL
CONFIDENTIAL

Heather L. Hemin
CLERK OF THE COURT

Mack Mason, 69060
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702
Appellant, In Proper Person

IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Clark

Mack Mason

Appellant,

Vs.

State of Nevada

Respondent.

CASE No. A-22-862342-W

DEPT. No. XII

Dkt. No. _____

DESIGNATION OF RECORD ON APPEAL

Please take notice that Mack Mason, Appellant, and in his proper person, hereby files this Designation of Record on Appeal in the above entitled action, pursuant to NRAP 10(b); and respectfully herein asks this Honorable Court to designate the record on appeal, to be certified by the Clerk of the District Court and transcribed to the Clerk of the Nevada Court of Appeals: All motions, pleadings, judgments and transcripts.

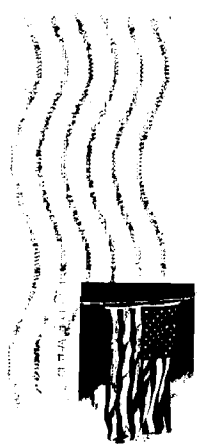
DATED this 27th day of April, 2023

RESPECTFULLY SUBMITTED,

Mack Mason
Appellant, In Propria Persona

Mack Mason 69860
P.O. Box 7800
L.C., NV. 89702

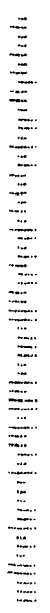
REPRO NO 805
ON MAY 20 1971



Clerk
Eight District Ct
200 Lewis Ave
Las Vegas, NV. 89155

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CONFIDENTIAL

891018300



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CONFIDENTIAL



ASTA

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

MACK MASON,

Plaintiff(s),

vs.

WARDEN FRAZIER, NNCC; STATE OF
NEVADA,

Defendant(s),

Case No: A-22-862342-W

Dept No: XII

CASE APPEAL STATEMENT

1. Appellant(s): Mack Mason

2. Judge: Michelle Leavitt

3. Appellant(s): Mack Mason

Counsel:

Mack Mason #69060
P.O. Box 7000
Carson City, NV 89702

4. Respondent (s): Warden Frazier, NNCC; State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.

Las Vegas, NV 89155-2212

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: December 9, 2022

10. Brief Description of the Nature of the Action: Civil Writ

Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 10 day of May 2023.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Mack Mason

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus**COURT MINUTES****March 15, 2023**

A-22-862342-W Mack Mason, Plaintiff(s)
 vs.
 Warden Frzier, NNCC, Defendant(s)

March 15, 2023 2:14 PM Minute Order Petition for Writ of Habeas Corpus

HEARD BY: Leavitt, Michelle**COURTROOM:** Chambers

COURT CLERK: Haly Pannullo
 Brittini Imaa

RECORDER:**REPORTER:**

**PARTIES
 PRESENT:**

JOURNAL ENTRIES

- The court having reviewed the Petition filed in this matter has determined a response is not necessary. The instant petition is untimely, having been filed over nineteen years subsequent to the remittitur issued affirming the petitioners judgment of conviction on September 3, 2002. Petitioner failed to establish or even address in the instant petition good cause and prejudice for filing the untimely petition.

Further, the instant petition is also a successive petition, as this is the fourth Petition for Writ of Habeas Corpus (Post- Conviction) filed by petitioner. The instant petition contends his PSI prepared in this matter is not based on any standards founded upon objective criteria. Clearly, the instant claim could have been brought in one of petitioner s three previous petitions, and therefore, is an abuse of the writ.

Based on the foregoing the petition is denied and Mr. Alex Chen, Esq. is to prepare the Findings of Fact and Conclusions of Law consistent with the court s order.

PRINT DATE: 06/12/2023

Page 1 of 2

Minutes Date: March 15, 2023

CLERK'S NOTE: A copy of the Minute Order has been distributed to:

Alexander.Chen@clarkcountyda.com

MACK MASON ID # 69060
NORTHERN NEVADA CORRECTIONAL CENTER
POST OFFICE BOX 7000
CARSON CITY, NEVADA 89702-7000 bi/03/15/2023

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated June 6, 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 38.

MACK MASON,

Plaintiff(s),

vs.

WARDEN FRAZIER, NNCC; STATE OF
NEVADA,

Defendant(s),

Case No: A-22-862342-W

Dept. No: XII

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 13 day of June 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk