

**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

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JESUS LUIS AREVALO,

S.C. No.:

Petitioner,

D.C. Case No.: D-22-653534-D

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND  
THE HONORABLE CHARLES HOSKIN,  
DISTRICT COURT JUDGE,

Respondents,  
and

CATHERINE DELAO,

Real Party in Interest.

**ANSWER TO**

**PETITION FOR WRIT OF MANDAMUS OR PROHIBITION**

**Petitioner:**

Jesus Luis Arevalo  
4233 Galapagos Ave.  
N. Las Vegas, Nevada 89085  
(702) 813 - 1829  
[wrath702@gmail.com](mailto:wrath702@gmail.com)

**Attorneys for Real Party in Interest:**

Marshal S. Willick, Esq.  
Nevada Bar No. 2515  
Richard L. Crane, Esq.  
Nevada Bar No. 9536  
WILICK LAW GROUP  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702) 438-4100  
Email: [email@willicklawgroup.com](mailto:email@willicklawgroup.com)

The Hon. Charles Hoskin  
Family Court, Dept. E  
601 North Pecos Road  
Las Vegas, Nevada 89155

**ROUTING STATEMENT**

This Writ Petition is presumptively assigned to the Court of Appeals per NRAP 17(b)(10) as it involves family law matters other than the termination of parental rights or NRS Chapter 432B proceedings.

## **NRAP 26.1 DISCLOSURE**

The following persons and entities described in NRAP 26.1(a) must be disclosed. In the course of these proceedings leading up to this appellate filing, Real

Party in Interest has been represented by the following attorneys:

- a. Marshal S. Willick, Esq., of the Willick Law Group.
- b. Richard L. Crane, Esq., of the Willick Law Group.

There are no corporations, entities, or publicly-held companies that own 10%

or more of Petitioner's or Real Party in Interest's stock, or business interests.

**DATED** this 20th day of June, 2023.

Respectfully Submitted By:  
WILLICK LAW GROUP

/s/ Marshal S. Willick  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 9536  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
email@willicklawgroup.com  
Attorneys for Real Party in Interest

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## **I. PROCEDURAL POSTURE AND REASON FOR WRIT PETITION**

This is a post-divorce action where previously-adjudicated vexatious litigant Jesus has steadfastly refused to abide by any of the *Orders* of the district court or of the Nevada Appellate Courts.

On April 19, 2023, the district court entered its *Order After the March 23, 2023, Hearing*.<sup>1</sup> At that hearing, Jesus was found to be in contempt for his refusal to sign the appropriate forms to reinstate his Nevada PERS benefits to Ms. Delao, the Real Party in Interest, as previously ordered.

Since a finding of contempt is not an appealable action, Jesus filed the instant Writ of Mandamus. However, his writ goes far afield from the contempt finding, asking this Court to address multiple other orders that are not reviewable. As such,

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<sup>1</sup> See V RA 971 - 977.

the majority of the writ petition should be summarily rejected; the small portion remaining is without merit.

## **II. STATEMENT OF FACTS**

Catherine and Jesus were divorced by way of the Order from Divorce Trial of May 18, 2012, Decree of Divorce from Decision of May 22, 2012, and Subsequent Hearing on October 30, 2012.<sup>2</sup> They have been in constant litigation since then, in efforts to get Jesus to comply with court orders.

Jesus had appealed the *Order from the May 6, 2020, Hearing* filed June 9, 2020. This Court issued its *Order Affirming in Part, Reversing in Part, Dismissing*

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<sup>2</sup> See I RA 1 - 22.

*in Part, and Remanding* on March 30, 2021.<sup>3</sup> Jesus asked the Supreme Court to review the *Decision*; the Supreme Court declined.

The March 30 *Decision* reversed the district court on the issue of whether the parties' minor child should attend a charter school picked by Jesus for lack of adequate findings. On remand, the district court made the requisite findings and again denied Jesus' request. He did not appeal that decision.

As to the issue of the PERS QDRO, this Court affirmed the district court's Order.

As to the life insurance policy to insure Ms. Delao's interest in the PERS pension, this Court reversed the district court as to the applicability of the statute of limitations, with directions to make further orders on remand. On remand, the district court found that Jesus had obtained a \$5,000 life insurance policy which was

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<sup>3</sup> See Nevada Supreme Court Case Nos. 81359 and 81359-COA.

“evidence of indebtedness” and the statute would run from that date. The district court also requested briefing from both parties as to the appropriate value of the life insurance policy since it was determined to still be ripe.<sup>4</sup> Jesus filed his *Brief After Remand*<sup>5</sup> and Catherine filed her *Brief Concerning Order Affirming in Part, Reversing in Part, Dismissing in Part, and Remanding*<sup>6</sup> on June 11, 2021.

Briefly, Jesus refused for years to get the stipulated insurance policy to secure Catherine’s interest in the PERS pension. He was then ordered to supply enough funds to provide alternate security. He refused to do that either, and when the PERS payments were ordered paid to Catherine to do so, he obtained outside employment without sending PERS a required form, causing PERS to stop all payments. He was then held in contempt, and an arrest warrant was issued.

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<sup>4</sup> See I RA 23 - 27.

<sup>5</sup> See I RA 71 - 105.

<sup>6</sup> See I RA 106 - 132.

In detail, the district court issued its *Order Setting Oral Argument* on June 21, 2021. The day before the hearing, Jesus requested the hearing be continued because he was “sick”.<sup>7</sup>

Despite counsel’s objections to a continuance, at the hearing on July 7, 2021, the district court continued the hearing “to allow Plaintiff more time to prepare for the hearing.”<sup>8</sup> The Hearing was held on July 21,<sup>9</sup> after which, the court issued its *Order After Remand* on July 30.<sup>10</sup> The *Order After Remand* enforced the order for Jesus to get a life insurance policy with a value of \$201,751.00. As of this writing, the life insurance to protect Catherine’s interest has not been obtained.

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<sup>7</sup> This is a reoccurring theme for Jesus. He has tried to delay pretty much every hearing that has been held, usually saying he is sick. See I RA 196 - 198.

<sup>8</sup> See I RA 199, III RA 475 - 485.

<sup>9</sup> See I RA 200 - 201.

<sup>10</sup> See I RA 202 - 214.

Jesus filed a *Motion to Reconsider Order After Remand* on August 13, 2021.<sup>11</sup>

A hearing was set for September 29.<sup>12</sup> Due to Jesus' status as a vexatious litigant, the court vacated the hearing on August 16.<sup>13</sup>

Catherine filed her *Motion For: Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Failure to Abide by the Court's July 30, 2021, Order after Remand; and Order to Cooperate in Obtaining a Life Insurance Policy; an Indemnification QDRO and Attorney's Fees and Costs; and Clarifications* on September 22, 2021.<sup>14</sup>

The Order to Show Cause hearing was set for November 3, 2021.<sup>15</sup> As Catherine followed the proper procedure for requesting an *Order to Show Cause*, the

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<sup>11</sup> See I RA 215 - 223.

<sup>12</sup> See I RA 224.

<sup>13</sup> See I RA 225 - 226.

<sup>14</sup> See II RA 227 - 261.

<sup>15</sup> See II RA 304 - 306.

court issued the actual *Order to Show Cause* on September 27.<sup>16</sup> Jesus filed his *Opposition* on October 11.<sup>17</sup> Catherine filed her *Reply* on October 23.<sup>18</sup>

On November 3, 2021, the court found that Jesus violated the court's Order, that if Jesus could or would not obtain a life insurance policy the court would find alternative means of security and make determinations to impute additional income against him, and awarded Catherine attorney's fees because Jesus filed a countermotion without leave of the court to do so.<sup>19</sup> Catherine filed a *Memorandum of Fees and Costs* on November 18, 2021.<sup>20</sup> Counsel for Catherine drafted and submitted the Order from that hearing.<sup>21</sup>

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<sup>16</sup> See II RA 309 - 311.

<sup>17</sup> See II RA 321 - 376.

<sup>18</sup> See II RA 381 - 399.

<sup>19</sup> See II RA 441 - 444, III RA 486 - 527.

<sup>20</sup> See II RA 445 - 459.

<sup>21</sup> See II RA 460 - 466.

After the hearing, Jesus submitted a request to file an Amended Opposition and Countermotion based on the court's denial of his countermotion because he is considered a vexatious litigant. The court denied that request on December 14, 2021.<sup>22</sup> Continuing his cycle of vexatious litigation, Jesus appealed that Order which was dismissed by the Nevada Supreme Court.<sup>23</sup>

Catherine filed her *Motion for Entry of an Indemnification QDRO and Attorney's Fees and Costs* on April 14, 2022, to assist in recovering the arrears built up by Jesus refusing to pay his obligations.<sup>24</sup> Jesus filed his *Opposition* on April 30.<sup>25</sup> Catherine filed her *Reply* on May 12.<sup>26</sup>

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<sup>22</sup> See III RA 467 - 469.

<sup>23</sup> See Supreme Court Case No. 83991 and III RA 528 - 531.

<sup>24</sup> See III RA 532 - 561.

<sup>25</sup> See III RA 565 - 582.

<sup>26</sup> See III RA 622 - 633.



Continuing his vexatious over-litigation, Jesus filed his *Plaintiff's Supplemental Points and Authority* on May 19, and his *Exhibits* on June 6, 2022.<sup>27</sup>

In a further attempt to delay matters, Jesus requested the hearing on the *Motion for Entry of an Indemnification QDRO and Attorney's Fees and Costs* be continued.<sup>28</sup>

The court granted his request, moving the hearing to June 22, 2022.<sup>29</sup>

At the hearing held on June 22, the court granted Catherine's *Motion for an Indemnification QDRO* with the caveat that if Jesus obtained a life insurance policy of adequate value within fourteen days as long-previously ordered, the QDRO would not be entered.<sup>30</sup> The Order from that hearing was entered on July 13.<sup>31</sup>

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<sup>27</sup> See III RA 637 - 645, III RA 646 - 668.

<sup>28</sup> See III RA 680 - 681.

<sup>29</sup> See III RA 684.

<sup>30</sup> See III RA 685 - 687, V RA 992 - 1006.

<sup>31</sup> See IV RA 688 - 695.

As Jesus had no intention of getting the life insurance policy that he had stipulated to obtain years earlier, the *Amended Qualified Domestic Relations Order* was entered on July 27, 2022.<sup>32</sup>

Jesus submitted a *Motion for Reconsideration* regarding the June 22, 2022, hearing. As he has been labeled a vexatious litigant, the court reviewed the Motion prior to allowing it to be filed, and denied the Motion without filing the same by way of an *Order* filed on August 3.<sup>33</sup> Jesus appealed that Order on August 5, 2022.<sup>34</sup>

In October, 2022, Catherine's benefits from PERS ceased entirely due to Jesus refusing to fill out the required form that said he was not working in a prohibited job.<sup>35</sup>

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<sup>32</sup> See IV RA 696 - 702.

<sup>33</sup> See IV RA 703 - 706.

<sup>34</sup> See IV RA 707 - 708, IV RA 709 - 710. See Supreme Court Case No. 85169.

<sup>35</sup> See IV RA 717.

It should be noted that Nevada PERS does not ban a recipient from working while receiving benefits; the recipient is only required to make a request to Nevada PERS for permission to work. PERS advises members:

You must apply for and receive Board approval prior to returning to any type of employment, either public or private, or your disability benefit will be suspended or canceled. Upon request, PERS will provide a Disability Reemployment Questionnaire that you may use to apply for Board approval of your reemployment. In order for the Board to approve your reemployment request, the reemployment must not be comparable to the position in which you were found to be disabled. Once your reemployment has been approved, there is no limit on the amount you can earn.

The Board will not approve employment of a disability retiree in a position which would normally be eligible for membership in PERS.<sup>36</sup>

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<sup>36</sup> Please take judicial notice of the Nevada PERS Disability Retirement Guide located at <https://www.nvpers.org/public/publications/dsbretguide.pdf>

Catherine had a letter sent to Jesus, demanding he fill out the form or a Motion for an Order to Show Cause would be filed.<sup>37</sup> When Jesus refused to respond, Catherine filed her *Motion For: Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs* and the associated exhibits on November 4, 2022.<sup>38</sup> The hearing on that Motion was set for February 7, 2023.<sup>39</sup> As Catherine and her attorneys had followed the Order to Show Cause procedures correctly, the court issued the *Order to Show Cause* on November 18, 2022.<sup>40</sup>

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<sup>37</sup> *Id.* Also see IV RA 747 - 749.

<sup>38</sup> See IV RA 716 - 730, IV RA 731 - 752.

<sup>39</sup> See IV RA 772.

<sup>40</sup> See IV RA 773 - 775.

Jesus filed his *Opposition* to Catherine's Motion along with his exhibits on November 19, 2022.<sup>41</sup> Catherine replied on November 21.<sup>42</sup>

This Court denied Jesus' Appeal on December 28, 2022.<sup>43</sup>

As the February contempt hearing was approaching, Jesus filed a *Video Appearance Request* on February 3, 2023.<sup>44</sup> The next day, Jesus filed *Plaintiff's Supplemental Points and Authority*.<sup>45</sup>

On February 6, the district court denied Jesus' request to appear by video as video appearances are not authorized in OSC hearings.<sup>46</sup> Despite the denial of his

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<sup>41</sup> See IV RA 776 - 786, 787 - 808.

<sup>42</sup> See IV RA 809 - 819.

<sup>43</sup> See IV RA 820 - 823.

<sup>44</sup> See IV RA 824 - 826. This was improper, since a contemnor is required to appear in person for OSC hearings. EDCR 5.517.

<sup>45</sup> See IV RA 827 - 837.

<sup>46</sup> See IV RA 839 - 843.

request, Jesus refused to go to the courthouse on the day of the hearing. Even though he was not granted permission to appear by video link, that is how he appeared for his contempt hearing.<sup>47</sup>

During the hearing, the district court was uncomfortable issuing an arrest warrant for Jesus' contempt as he was unrepresented. The Judge requested further case law on the matter, which Catherine provided that day.<sup>48</sup> After which, Catherine submitted an Ex Parte request for the issuance of a *Bench Warrant*.<sup>49</sup>

The district court still refused to sign the *Bench Warrant*, despite the supplemental information provided by Catherine. This required Catherine to file a *Motion for Incarceration* on February 17.<sup>50</sup> The hearing for that Motion was set for

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<sup>47</sup> See IV RA 844 - 845, V RA 1007 - 1039.

<sup>48</sup> See IV RA 846 - 856.

<sup>49</sup> See IV RA 857 - 864.

<sup>50</sup> See IV RA 865 - 876.

May 2, 2023.<sup>51</sup> Catherine requested the court shorten the time this motion was to be heard.<sup>52</sup>

On its own volition, the district court interlined the Order Shortening Time, making it an *Order to Show Cause* and an *Order Shortening Time*, continuing the proceedings from February 7, and moving the hearing to March 23, 2023.<sup>53</sup>

The *Order from the February 2, 2023, Hearing*, was signed by the district court on February 22.<sup>54</sup>

On February 28, the district court appointed Christopher Tilman, Esq., as attorney for Jesus.<sup>55</sup> It is undisputed that Mr. Tilman prepared the appointment *Order* and thus was aware that he was Jesus' appointed attorney.

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<sup>51</sup> See IV RA 877.

<sup>52</sup> See IV RA 882 - 886.

<sup>53</sup> See IV RA 887 - 889.

<sup>54</sup> See IV RA 878 - 881.

<sup>55</sup> See IV RA 890 - 891.

Despite being represented by counsel, Jesus improperly filed his own Opposition to *Defendant's Motion for Incarceration* on March 3.<sup>56</sup> Catherine replied on March 7.<sup>57</sup> Trying to get ahead of the district court's Order to Show Cause proceedings, and without asking the court's permission (as required because he remains a vexatious litigant), Jesus filed his *Plaintiff's Motion to Reconsider Order Finding Him in Contempt* on March 17.<sup>58</sup> The court set the hearing on this unapproved Motion for May 2.<sup>59</sup>

At the March 23, 2023, hearing, Mr. Tilman made an oral request to withdraw as Jesus' attorney of record,<sup>60</sup> primarily due to the fact that Jesus had "alienated two

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<sup>56</sup> See IV RA 892 - 901.

<sup>57</sup> See V RA 902 - 908.

<sup>58</sup> See V RA 909 - 918.

<sup>59</sup> See V RA 919.

<sup>60</sup> See V RA 971 - 972, 1042 - 1045.



thirds of his staff,” going as far as his staff informing Mr. Tilman that they “could not represent this guy,” as he had gone “awol” on them.<sup>61</sup>

The district court made findings and orders regarding Jesus’ contempt.<sup>62</sup> The district court gave Jesus yet another chance to easily purge the contempt by giving him two weeks to fill out the required form to reinstate the PERS benefits.<sup>63</sup> The district court went as far as to state for the record that if an outside observer were to

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<sup>61</sup> See V RA 1043. Mr. Tilman had taken a vacation and the alienation of his staff took place while he was away.

<sup>62</sup> See V RA 923 - 926, 1040 - 1074.

<sup>63</sup> Jesus was on notice that Catherine was seeking to hold him in contempt for his actions since November 2022. However, at no time from then until now has Jesus requested permission to work from Nevada PERS, since doing so would permit PERS to send the money as ordered to Catherine to provide security for the missing insurance policy, which Jesus is single-mindedly determined to prevent at all costs.

review this matter, it would appear that the court was biased against Catherine given the leeway, assistance, and repeated and extensive efforts the court put in to try and keep Jesus in a position to avoid jail time or contempt charges.<sup>64</sup> Jesus again refused to comply with this *Order*.

The *Bench Warrant* was signed by the district court on April 11, 2023.<sup>65</sup>

As Jesus' *Motion for Reconsideration* was still scheduled for May 3, Catherine opposed the Motion on April 13, despite Jesus (again) not obtaining permission to file the same.<sup>66</sup>

The district court issued the Order from the March 23, hearing on April 19,<sup>67</sup> and vacated the May 3 *Motion for Reconsideration* hearing on April 25.<sup>68</sup>

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<sup>64</sup> See V RA 1067.

<sup>65</sup> See V RA 955 - 957.

<sup>66</sup> See V RA 958 - 970.

<sup>67</sup> See V RA 971 - 977.

<sup>68</sup> Again, the District court noted that Jesus did not have prior permission to file

On the last possible day to appeal the March 23 Order, Jesus filed his Petition for a Writ of Mandamus.

In light of Jesus' utter contempt and ongoing abuse of all process, Catherine filed a *Motion for Attorney's Fees and Costs Pendente Lite and Related Relief* on June 6.<sup>69</sup> That Motion is set to be heard on July 21, on the district court's in-chambers calendar.<sup>70</sup>

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his Motion. See V RA 978 - 980.

<sup>69</sup> See V RA 981 - 991.

<sup>70</sup> See V RA 1075.

### **III. ARGUMENT**

Jesus has decided to try and get this Court to reverse orders that are long since final, un-appealed, and not appealable.<sup>71</sup> However, we will address each of his arguments in turn.

#### **April 17, 2023, Order**

##### **Failure to File Form**

Jesus argues that the district court was ordering him to “violate Nevada law” concerning the filing of the form to keep the PERS pension in pay status. His argument is basically one of impossibility: he claims that it was impossible for him to file the form as he “had to work to support his family.” This argument fails in light of the facts.

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<sup>71</sup> See NRAP 4(1).

Jesus knew that he was required to request permission from NV PERS before he began employment.<sup>72</sup> He was also on notice as of November 2022 that Catherine would seek a contempt charge if he did not reinstate the pension benefits that were suspended in October 2022, or supply the missing insurance policy.<sup>73</sup>

Even though he was on notice to make the request to work through Nevada PERS, he never did. As of this writing, he still has never made the request. It is his intent to prevent PERS from paying to Catherine the benefits she was awarded – payment of which are beyond appeal.

The QDRO that was filed required him to not take *any* action that affected PERS' payment of benefits.<sup>74</sup> Jesus' failure to file the form as required violated that order. It was proper for the Court to find him in contempt of the QDRO.

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<sup>72</sup> He has filed this request to work at least once before.

<sup>73</sup> See IV RA 716 - 730.

<sup>74</sup> See IV RA 700 second full paragraph.

One cannot create a situation and then complain about it; a claim of “impossibility” does not survive if the impossibility was created by the person who is attempting to make the claim.<sup>75</sup>

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<sup>75</sup> See *Hanley v. State*, 83 Nev. 461, 434 P.2d 440 (1967) citing to *United States v. Vassalo*, 52 F.2d 699 (E.D. Mich. 1931); *People v. Steenbergen*, 31 Ill.2d 615, 203 N.E.2d 404 (1964); *People v. Welsh*, 42 Misc.2d 296, 248 N.Y.S.2d 14 (1964); *State v. Aikers*, 87 Utah 507, 51 P.2d 1052 (1935); *Frey v. Calhoun*, 107 Mich. 130, 64 N.W. 1047 (1895); *Commonwealth v. McCarthy*, 163 Mass. 458, 40 N.E. 766 (1895); *Falk v. United States*, 15 App. D.C. 446 (1899); *Cox v. Hand*, 185 Kan. 780, 347 P.2d 265 (1959); and *State ex rel. Shetsky v. Utecht*, 228 Minn. 44, 36 N.W.2d 126, 6 A.L.R. 968 (1949).

### **Appointed Counsel**

Jesus admits in his Petition that appointment of counsel in a civil action is discretionary.<sup>76</sup> The district court did not feel “comfortable” considering jail time for Jesus without him having counsel.<sup>77</sup> Mr. Tilman (an experienced attorney with many years of practice in both family and criminal law) was appointed.

Jesus argues that Mr. Tilman was not made aware of his appointment until March 15, 2023. This assertion is belied by the fact that the appointment order was actually filed *by Mr. Tilman* on February 28,<sup>78</sup> who was aware he had been appointed that day and signed the order. Jesus was served via electronic service that same day.<sup>79</sup>

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<sup>76</sup> See IV RA 827 - 837. Also see *Lewis v. Lewis*, 132 Nev. 453, 373 P.3d 878 (2016).

<sup>77</sup> See V RA - 1046.

<sup>78</sup> See IV RA 890.

<sup>79</sup> See IV RA 891.

He made no attempt to contact Mr. Tilman until March 15, by which time Mr. Tilman was on vacation but had staff available. Jesus' failure/refusal to work with his attorney is not grounds for complaining about the result.

When Jesus finally did attempt to contact Mr. Tilman, he was abusive and rude to the attorney's staff. Jesus provides no excuse for this behavior, and there is none. Mr. Tilman reported Jesus' abysmal behavior to the district court in his oral motion to be relieved as appointed counsel.<sup>80</sup>

Thus the district court did appoint counsel, but Jesus prevented the representation and then attempted to claim he was unprepared to go forward as he "did not have counsel."

In other words, Jesus created a problem and then attempted to benefit from it.<sup>81</sup>

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<sup>80</sup> See V RA 1043.

<sup>81</sup> See *Hanley, supra*.



### **Vexatious Litigant**

Jesus has been declared a vexatious litigant and appears on the Supreme Court Vexatious Litigant List. He is to request permission before filing any documents. Here, while he was properly represented, Jesus filed a fugitive opposition to a motion. The district court declared the filing as fugitive as only his attorney can file documents in the case. EDCR 5.301(e).

It was Jesus that caused his attorney to leave the case and again he created the problem about which he now complains. He was allowed to put on a defense to the contempt charge, but refused to address the issues even though he was constantly re-directed back to them by the court.<sup>82</sup>

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<sup>82</sup> See V RA 1055 - 1066.

## **ADA**

Jesus argues that his “rights under the ADA are being violated.” However, he does not specify what special accommodations are necessary due to his supposed disability. There are no requests or reference to any document, case, or law that any court could refer as to an accommodation.

It appears that Jesus claims that being ordered to come to court violates his rights under the ADA. However, there is no reference saying that his alleged disability<sup>83</sup> prevents him from coming to court. There is no violation of the ADA.

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<sup>83</sup> Jesus murdered an unarmed man in cold blood while a police officer, and was fired for doing so. He later claimed to have “post-traumatic stress” and took a disability pension from PERS. He has received those benefits for years.

### **Appearance in Court**

Jesus argues that there is some sort of “bias” against him as he is required to appear in court for his contempt hearing but Catherine was not required to be there.

EDCR 5.517(b) details the requirements of who is to appear for an Order to

Show Cause hearing:

Even if represented by counsel, a party must attend a hearing if required by rule, statute, or court order, and at: case management conferences; contempt hearings directed against that party; returns from mediation; and hearings on preliminary motions relating to custody, child, or spousal support; temporary possession of a residence and protective orders, unless otherwise directed by the court.

Jesus was required to appear as he was being held in contempt. Catherine’s counsel *did* appear personally at the hearing, although not required to do so under the rule.<sup>84</sup> There was no bias.

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<sup>84</sup> Contrary to Jesus’ Petition, EDCR 5.609 does not address who must be

### **Child Support**

There is no request for a modification of child support before the district court.

Jesus has mentioned it many times in open court, but has not filed a motion requesting the same. This is a non-issue.

### **Indemnification QDRO**

The marital division of the Nevada PERS benefits at issue here has been appealed and affirmed. None of Jesus' arguments about alleged disability income, calculations by a CPA, or other arguments dealing with the division of the pension are reviewable again. These are *res judicata*.

The indemnification QDRO was required due to Jesus refusing to obtain the required life insurance policy. This Court had already given instructions to the

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present for contempt hearings.

district court that if the statute of limitations did not apply, then a value of the policy must be determined and an order would issue. The order for the life insurance policy was issued on July 30, 2021.<sup>85</sup> That decision was not appealed by Jesus and is not again reviewable.

Jesus steadfastly refused to cooperate in getting the life insurance policy securing Catherine's share of the Nevada PERS benefits. After *numerous* hearings, the district court finally ordered that the Indemnification QDRO be entered as an alternate form of security on July 13, 2022.<sup>86</sup> This was nearly a year after Jesus was ordered to cooperate in obtaining the insurance policy as he had stipulated to do years earlier.<sup>87</sup> The order gave Jesus 14 days from the date of the hearing to obtain the life

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<sup>85</sup> See I RA 210 - 213.

<sup>86</sup> See IV RA 693. The hearing was held on June 22, 2022.

<sup>87</sup> This is just one instance where the district court bent over backwards to assist

Jesus, but he still refused to cooperate.

insurance policy. Since he did not comply, the Indemnification QDRO was entered on July 27, 2022.<sup>88</sup>

The QDRO awarded Catherine 100% of the Nevada PERS benefits, minus \$10 as required by the Official Policies of the Public Employees' Retirement System of Nevada as authorized by NRS 286.200,<sup>89</sup> to fund the alternate security by building up a cash balance of at least the required face value of the missing life insurance policy and to repay Catherine for all of the missed NV PERS benefits and attorney's fees that had accrued during the previous six years of litigation. Once that had been accomplished, a new QDRO was to be entered to pay Catherine only her marital share of the pension.

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<sup>88</sup> See IV RA 696 - 702.

<sup>89</sup> Please take Judicial notice of NV PERS official policies, page 67, section 10.42: <https://www.nvpers.org/public/employers/PERS%20Official%20Policies.pdf>.

Jesus could have avoided *all* of this had he just obtained the life insurance policy as ordered years ago and made arrangements to pay down his debt.<sup>90</sup> He refuses to do either. As such, the district court used an authorized method to obtain an alternate form of security, as this Court held it should in *Reed*<sup>91</sup> and *Kennedy*<sup>92</sup>:

liquidation of a judgment for arrearages may be scheduled in any manner the district court deems proper under the circumstances. See also *Chesler v. Chesler*, 87 Nev. 335, 486 P.2d 1198 (1971).

It is uncontroverted that Jesus has a requirement to file a form with Nevada PERS annually attesting to the fact that he is not working or is working in an approved position. Jesus refused to fill out this form as he obtained employment without requesting permission to do so from Nevada PERS. Even though he could

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<sup>90</sup> The marital share of the pension has been affirmed by this Court and the other debts and fees have either been affirmed or were never appealed.

<sup>91</sup> *Reed v. Reed*, 88 Nev. 329, 497 P.2d 896 (1972).

<sup>92</sup> *Kennedy v. Kennedy*, 98 Nev. 318, 646 P.2d 1226 (1982).

make that request at any time, he has refused to do so, for the specific purpose of causing PERS to stop paying any money to Catherine.

Jesus argues that it is “illegal” to fill out the form while working. He omits that he could have requested to work as far back as November 2022, but just refused and refuses to do so.

### **Claim of Bias**

As indicated above, Jesus’ misconstrues the court attempting to enforce its orders and to compel compliance by a vexatious litigant as “bias.” As this Court is aware “A judge is presumed to be unbiased, and ‘the burden is on the party asserting the challenge to establish sufficient factual grounds warranting disqualification.’”<sup>93</sup>

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<sup>93</sup> See *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009), citing to *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988), abrogated on other



The facts in *Rivero* are on point:

To disqualify a judge based on personal bias, the moving party must allege bias that “stem[s] from an extrajudicial source and result[s] in an opinion on the merits on some basis other than what the judge learned from his participation in the case.” *In re Petition to Recall Dunleavy*, 104 Nev. 784, 790, 769 P.2d 1271, 1275 (1988) (quoting *United States v. Beneke*, 449 F.2d 1259, 1260-61 (8th Cir.1971)). “[W]here the challenge fails to allege legally cognizable grounds supporting a reasonable inference of bias or prejudice,” a court should summarily dismiss a motion to disqualify a judge. *Id.* at 789, 769 P.2d at 1274.

Jesus argues that Judge Hoskin is biased against him but the only evidence of these allegations are his in-court statements while ruling on this case. The hearing transcripts do not reveal any bias on the part of the district court, which *has* truly bent over backwards in Jesus’ favor for *years*.<sup>94</sup>

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grounds by *Halverson v. Hardcastle*, 123 Nev. 245, 266, 163 P.3d 428, 443 (2007).

<sup>94</sup> See V RA 992 - 1075.

Lastly, other than claiming bias in his pleadings and in his Petition to this Court, he has never filed a motion for the disqualification to be heard by the Chief Judge, apparently because he is unable to establish the legally cognizable grounds that might infer “bias.”

#### **IV. CONCLUSION**

Based on the above and the record in this case, the Court should dismiss the Writ Petition as lacking merit and being without support legally, factually, or

procedurally, and return the matter to the district court for further attempts to enforce its orders.

Dated this 20th day of June, 2023.

Respectfully submitted,  
Willick Law Group

/s/ Marshal S. Willick  
Marshal S. Willick, Esq.  
Richard L. Crane, Esq.  
Attorneys for Real Party in Interest

## CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[ **X** ] This brief has been prepared in a proportionally spaced typeface using Corel WordPerfect Office 2021, Standard Edition in font size 14, and the type style of Times New Roman; or

[   ] This brief has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☒ Proportionately spaced, has a typeface of 14 points or more and contains 5,007 words outside of tables, etc., which are not counted.

☐ Monospaced, has 10.5 or fewer characters per inch, and contains

\_\_\_\_\_ words or \_\_\_\_\_ lines of text; or

☐ Does not exceed \_\_\_\_\_ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is

not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

**DATED** this 20th day of June, 2023.

WILLICK LAW GROUP

/s/ Marshal S. Willick

MARSHAL S. WILLICK, ESQ.

Nevada Bar No. 2515

RICHARD L. CRANE, ESQ.

Nevada Bar No. 9536

3591 East Bonanza Road, Suite 200

Las Vegas, Nevada 89110-2101

(702) 438-4100

email@willicklawgroup.com

Attorneys for Respondent

## VERIFICATION

Marshal S. Willick, Esq., being first duly sworn, deposes and says that:

I am an attorney duly licensed to practice law in the State of Nevada. I am an attorney at the Willick Law Group, and I am the attorney representing Petitioner, Catherine Delao. I have read the preceding filing, and it is true to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

**DATED** this 20th day of June, 2023.

/s/ Marshal S. Willick  
MARSHAL S. WILLICK, ESQ.

## CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Willick Law Group and that on 20th day of June, 2023, I served a true and correct copy of the Real Party in Interest's *Answer to Petition for Writ of Mandamus or Prohibition* by electronic means with the Clerk of the Nevada Supreme Court, to the following:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wraith702@gmail.com](mailto:wraith702@gmail.com)

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

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The Hon. Charles Hoskin  
Family Court, Dept. E  
601 North Pecos Road  
Las Vegas, Nevada 89155

/s/ Justin K. Johnson  
Employee of WILICK LAW GROUP