

NO 86881

FILED

JUL 19 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Smith
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

Peter-Jason Helfrich
Real Party In Interest

5th J.D.C. of Nev. Case No. CR20-0145

Petitioner/Plaintiff, Affiant,
v. Mark Kampf,
Judge David Gamble,
The 5th Judicial District
Court of the State of Nevada, In and
For the County of Nye
ex. rel., et. al.
Respondent/Defendant S

Case No. _____
Dept. No. _____
Docket No. _____

FILING FEES WAIVED: CRIMINAL

Related Cases: 85505, 84816, 85583,
85793, 85862, 86102, 86686, 86882,
86881 (Nev. Sup. Ct. Cases)

AFFIDAVIT OF
PETITION FOR WRIT OF MANDAMUS

Affiant
COMES NOW, Petitioner/Plaintiff, Peter-Jason Helfrich, pro. per,

and respectfully moves this Honorable Court to issue a Petition for Writ of Mandamus, being filed contemporaneously herewith, directing Judge David R. Gamble to reverse and vacate

his order, and/or actions in denying Petitioner/Plaintiff the USCA, et. seq. right(s) to have all of the Affiant's 'Motions' (etc.) placed on the 'Law of Motions Calender' immediately - Nunc Pro Tunc Ab Initio - 5/27/2020 to Present.

This motion is made and based pursuant to the supporting Points and Authorities attached hereto,

N.R.S. 34.150 through N.R.S. 34.310, N.R.A.P., Rule 21, as well as all papers, pleadings, and

documents on file herein; & NRS 34, et. seq.; expeditious judicial examination required - see NRS 34.740, NRS 208.165, 28 USC 1746, (1) w/o USA

Notice to Agents is Notice to Principals / Notice to Principals is Notice to Agents -> An un-rebutted Affidavit stands as TRUTH; Silence is Acquiescence, Concession of Error, Tactic Agreement

& Estoppel. Due to NDOC-HDSP officials serial history of intercepting outgoing &/or incoming LEGAL MAIL; Elizabeth Brown, Clerk of Court is hereby directed to effectuate Service to respondents via the CM/ECF system or otherwise.

RECEIVED
JUL 17 2023
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

23-23117

POINTS AND AUTHORITIES

Statement of Facts

(1) I, Peter-Jason Helfrich, declare under penalty of perjury:

(2) THAT It is my understanding, upon new information, that it is Judge David R. Gamble's duty to place any and all of the Affiant's Motion(s), etc. on the 'Law of Motions Calender' in a timely manner.

(3) See the Public Record in the following Nevada Supreme Court Cases: 85505, 84816, 85583, 85793, 85862, 86102, 86686, 86882, 86881; See 5th J.D.C. of Nev. Case #: CR20-0145; See also U.S.D.C. of Nev. Case 2:23-cv-00570.

The Public Record(s) in the above cases clearly prove that Judge David R. Gamble has not placed a single 'Motion', etc., of the Affiant's on the 'Law of Motions Calender' → NUNC PRO TUNC AB INITIO.

(4) In a recent letter Dated June 30, 2023; Brittani K. Smith, Deputy Clerk, Nye County 5th J.D.C. of Pahrump, Nevada; wrote: "RE: CR 20-0145 Mr. Helfrich: The Nye County Clerk's office is in receipt of your 'Petition for Writ of Mandamus / Prohibition and Notice of Motion'. [...] You will see that the 'Notice of Motion' has TBD as the date due to Judge Gamble must be the one to set it for hearing."

(5) See 5th J.D.C. = Nye County Case Summary CR20-0145 = previously submitted on this Court's record in case 85505, etc.: Filed 7/8/2021... "Notice of Motion to Withdraw 'Plea' & Notice that I am firing David Neely; & Filed 11/16/2021 "Motion to Withdraw Counsel"; Filed 12/15/2021 "Motion for Sentencing Hearing Transcripts; 10/13/2022 (Filed) → "Motion for Transcripts"; Filed 2/21/2023 "Affidavit of Emergency Motion for a Preliminary Injunction".....

II. LEGAL ARGUMENT

Petitions for Extraordinary Writs are addressed to the sound discretion of the Supreme Court of Nevada and may issue when there is no plain, speedy, and adequate remedy at law. See, State v. Second Judicial District Court ex. rel. County of Washoe, 11 P.3d 1209, ___ Nev. ___ (2000).

A writ of mandamus is issued to compel performance of an act which the law especially enjoins as a duty resulting from an office, trust or station. See, Lewis v. Stewart, 619 P.2d 1212, 96 Nev. 846 (1980).

A writ of mandamus may issue to control arbitrary or capricious exercise of discretion. See, Barnes v. Eighth Judicial District Court of the State of Nevada, in and for Clark County, 748 P.2d 483, 103 Nev. 679 (1987).

This Court has also held that the action being sought to be compelled must be one already required by law. See, Mineral County v. State, Department of conservation and Natural Resources, 20 P.3d 800, ___ Nev. ___ (2001).

Mandamus is the appropriate vehicle for challenging contested orders entered by the District Court. See, Angell v. Eighth Judicial District court in and for the county of Clark, 839 P.2d 1329, 108 Nev. 923 (1992).

It has also been held that a writ of mandamus is proper when the petitioner raises urgent and important issue[s] of law requiring clarification by the Supreme Court. See, Falcke v. Douglas County, 3 P.3d 661, ___ Nev. ___ (2000).

LEGAL ARGUMENT

(6) Judge Gamble has failed or refused to set any nor all of the Affiant's Motions, etc., for hearing "Ab Initio" to present. Deputy Clerk, Brittani K. Smith clearly stated to helfrich "RE: Letter Dated June 30, 2023] You will see that the "Notice of Motion" has TBD as the date due to Judge Gamble must be the one to set it for hearing"... Judge Gamble's acts/and/or failure to act has prevented helfrich from fairly and meaningfully litigating CR20-0145. Without boring this Court with name-ing each motion has filed over two years +/-; none of → not one → single Motion has been given a hearing date.

(7) Due to these facts, and numerous other valid grounds; helfrich filed a Nevada Commission on Judicial Discipline Verified Statement of Complaint vs. Judge David Gamble; see also PACER → U.S.D.C. of Nevada Case 2:23-cv-00570-RFB-NJK Document 32 Filed 6/13/2023 Pages 6, et. seq.

(8) Without this Court's intervention, Judge David Gamble shall continue to block any/all of helfrich's Motions from receiving hearing date(s), etc.

(9) On 6/27/2023, helfrich filed (CR20-0145):^(a) Motion to Recuse Judge David Gamble; & ^(b) Motion to Fire / Withdraw David Neely III.. Judge Gamble is basically ignoring these Motions by refusing to place them on the Law of Motions Calender for hearing date(s).

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this
(1) Honorable Court to Order Judge David R. Gamble to place ALL Motions, etc.,
on the Law of Motions Calender & provide hearing dates ASAP,
and any/all other relief this Court deems fit.
within a reasonable amount of time as required by N.R.S. 34.830.

DATED this 18th day of July, 2023
(2) That Elizabeth Brown, Clerk of Court effectuate service to all Respondents
via the CM/ECF System or
otherwise. & Due to NDOC-HDSP
officials serial history of
intercepting outgoing/incoming
legal mail, etc.

Respectfully submitted, NRS 208.165
28 USC 1746, (1) W/O USA

:Peter-Jason: Helfrich

Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that NRS 208.165 / 28 USC 1746, (1) W/O USA
I served this
Petition for Writ of Mandamus, and that on this 18th day of July, 2023 I did serve a

true and correct copy of the above mentioned document, by giving it to a prison official at the HS-SDA H/DSP

Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Elizabeth Brown

Mark Kampf

201 South Carson Street
Suite 201
Carson City, Nevada
89701

1520 E. Basin Ave.
Pahrump, Nevada 89060

ALL RIGHTS

DATED this 18th day of July, 2023

i do not have access to
a printer; i can not
currently supply Exhibits, etc.

:Peter-Jason: Helfrich

UCC 1-207, 1-308, 3-402(B)