



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

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Elizabeth A. Brown
Clerk of Supreme Court

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

August 2, 2023

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: DEMARENE COLEMAN vs. WARDEN NAJERA; AARON FORD ATTORNEY GENERAL;
STATE OF NEVADA; STEVEN B. WOLFSON D.A.

S.C. CASE: 86923
D.C. CASE: A-23-868466-W

Dear Ms. Brown:

In response to the e-mail dated August 2, 2023, enclosed is a certified copy of the Findings of Fact, Conclusions of Law, and Order filed July 25, 2023 and the Notice of Entry of Findings of Fact, Conclusions of Law and Order filed July 26, 2023 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
Chief Deputy District Attorney
Nevada Bar #14408
8200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DEMARENE COLEMAN,
ID#1963947

Petitioner,

CASE NO: A-23-868466-W

-vs-

THE STATE OF NEVADA,

DEPT NO: VI

Respondent.

FINDINGS OF FACTS, CONCLUSION OF LAW, AND ORDER

DATE OF HEARING: June 20, 2023
TIME OF HEARING: 3:00 pm

THIS CAUSE having come on for hearing before the Honorable JACQUELINE M. BLUTH, District Judge, on the 20th day of June 2023, the Petitioner not present, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JOHN AFSHAR, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

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1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 On September 20, 2005, Demarene Coleman (hereinafter “Petitioner”) was charged by
4 way of Information with MURDER WITH USE OF A DEADLY WEAPON (Felony – NRS
5 200.010, 200.030, 193,165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
6 (felony – NRS 200.010, 200.030, 193.330, 193.165); and ACCESSORY TO MURDER
7 (Felony – NRS 200.010, 200.030, 195.030, 195.040).

8 On August 22, 2006, the district court held a hearing to determine Defendant’s
9 competency. The court found that the Petitioner was not competent and remanded him to the
10 custody of the Division of Mental Health Development Services for detention and treatment.
11 An Order of Commitment was filed on August 28, 2006. On December 12, 2006, the district
12 court, after reviewing the doctor’s reports, held that Petitioner was competent. On December
13 29, 2006, the court filed its Findings of Competency.

14 On May 29, 2007, Petitioner entered into a Guilty Plea Agreement and pled guilty to
15 FIRST DEGREE MURDER and BATTERY WITH USE OF A DEADLY WEAPON, the
16 charges set forth in the Amended Information filed that same day.

17 On July 24, 2007, the date set for sentencing, defense counsel Carmine Colucci
18 requested a continuance for leave to file a Motion to Withdraw Guilty Plea. That same day,
19 the court granted Petitioner’s request for a continuance. On August 7, 2007, Petitioner filed a
20 Motion to Withdraw Guilty Plea. On August 13, 2007, the State filed its Opposition. On
21 August 14, 2007, the district court denied Petitioner’s Motion to Withdraw Guilty Plea and
22 sentenced Petitioner as follows: As to Count 1 – to a MAXIMUM of FIFTY YEARS with a
23 MINIMUM of parole eligibility of FORTY-EIGHT (48) MONTHS to run CONCURRENT
24 with Count 1; with SEVEN HUNDRED FIFTY-FIVE DAYS credit for time served. A
25 Judgement of Conviction was filed on August 22, 2007.

26 On August 19, 2008, Petitioner filed a Petition for Writ of Habeas Corpus (“First
27 Petition”), Motion for Leave to Proceed in Forma Pauperis, and Motion for Appointment of
28 Counsel; Request for Evidentiary Hearing. The State filed its Response on October 28, 2008.

1 On November 18, 2008, the Court heard the matter. On February 26, 2009, the Court filed its
2 Findings of Fact, Conclusion of law Order denying the First Petition.

3 On August 14, 2019, Petitioner filed a second Petition for Writ of Habeas Corpus
4 ("Second Petition"). The State filed its Response on October 2, 2019. The Court denied
5 Petitioner's Second Petition on October 17, 2019.

6 On June 14, 2021, Petitioner filed a Motion for Appointment of Attorney. The Motion
7 was denied on July 9, 2021.

8 On January 7, 2022, Petitioner filed a Motion for Modification of Sentence. The State
9 filed its Opposition on January 25, 2022. On February 1, 2022, the Court heard the matter and
10 denied the Petitioner's motion. The Court denied Petitioner's motion on February 1, 2022. On
11 March 8, 2022, the Court filed its Order Denying Petitioner's Motion for Modification of
12 Sentence. On August 3, 2022, the Nevada Supreme Court affirmed the district court's decision
13 to deny Petitioner's motion.

14 On April 5, 2023, Petitioner filed a third Petition for Writ of Habeas Corpus ("Third
15 Petition"). On April 13, 2023, Petitioner filed a Motion for Appointment of Attorney and
16 Request for Evidentiary Hearing. On May 1, 2023, the State filed its Opposition to Petitioner's
17 Motion for Appointment of Attorney and Request for Evidentiary Hearing. On May 9, 2023,
18 the State filed its Response to Petitioner's Third Petition. On the same day the Court held a
19 hearing and denied Petitioner's Motion for Appointment of Attorney and Request for
20 Evidentiary Hearing. On June 20, 2023, the Court filed a Minute Order denying Petitioner's
21 Third Petition.

22 ANALYSIS

23 The Court Orders, Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction) is
24 denied.

25 "Any person convicted of a crime and under sentence of death or imprisonment who
26 claims that the conviction was obtained, or that the sentence was imposed, in violation of the
27 Constitution of the United States or the Constitution or laws of this State, or who, after
28 exhausting all available administrative remedies, claims that the time the person has served

1 pursuant to the judgment of conviction has been improperly computed, may, without paying
2 a filing fee, file a postconviction petition for a writ of habeas corpus to obtain relief from the
3 conviction or sentence or to challenge the computation of time that the person has served."
4 NRS 34.724.

5 However, "[u]nless there is good cause shown for delay, a petition that challenges the
6 validity of a judgment or sentence must be filed within 1 year after entry of the judgment of
7 conviction or, if an appeal has been taken from the judgment, within 1 year after the appellate
8 court of competent jurisdiction ... issues its remittitur." NRS 34.724(1). "[G]ood cause for
9 delay exists if the petitioner demonstrates to the satisfaction of the court: (a) That the delay is
10 not the fault of the petitioner; and (b) That dismissal of the petition as untimely will unduly
11 prejudice the petitioner." NRS 34.724(1)(a)-(b).

12 "Application of the statutory procedural default rules to post-conviction habeas
13 petitions is mandatory." State v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark, 121 Nev. 225,
14 231, 112 P.3d 1070, 1074 (2005).

15 Here, Petitioner has raised seven interrelated grounds for relief in his Petition revolving
16 around his guilty plea agreement in case number 05C215295-1. However, each ground fails
17 as they are subject to the above procedural bar.

18 Petitioner entered a plea of guilty and was sentenced on August 14, 2007. Judgment of
19 Conviction filed August 22, 2007, in 05C215295-1. Thereafter, Petitioner's judgment of
20 conviction was filed on August 22, 2007. Id. The instant Petition was filed on April 5, 2023.
21 Petition for Writ of Habeas Corpus (Post-Conviction) filed April 5, 2023. Clearly, the one-
22 year time limit of NRS 34.724(1) has lapsed and this Petition should be barred. In reviewing
23 Petitioner's Petition, at no point does he argue about, or provide a reason for, his Petition being
24 filed far after the one-year time limit expired. Even if Petitioner had provided argument
25 pertaining to good cause for delay, the Court notes that all of his grounds are premised on
26 events that occurred in 2007. Petitioner could have brought his claims much sooner than now.

1 Per the Petition, Petitioner was present for each event he now complains of. As such, the
2 Petition must be denied.

3 As this Petition is time-barred, there is no need for an evidentiary hearing. See NRS
4 34.770(1) ("The judge or justice, upon review of the return, answer and all supporting
5 documents which are filed, shall determine whether an evidentiary hearing is required."); see
6 also NRS 34.770(2) ("If the judge or justice determines that the petitioner is not entitled to
7 relief and an evidentiary hearing is not required, the judge or justice shall dismiss the petition
8 without a hearing.").

9 **ORDER**

10 Therefore, COURT ORDERS, Petitioner's Petition for Writ of Habeas Corpus is
11 DENIED and that the State's Countermotion to Dismiss Pursuant to Laches is DENIED as
12 MOOT.

13 ~~DATED this 25th day of July, 2023.~~

Dated this 25th day of July, 2023

14 

15
16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001561
EB2 BF9 EC11 0143
Jacquelyn M. Bluth
District Court Judge

kj

19 BY



#10539 for

20 JOHN AFSHAR
21 Chief Deputy District Attorney
22 Nevada Bar #14408

23 August 2, 2023



Mlb/L5

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

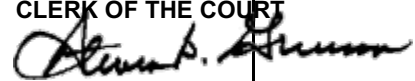
5
6 Demarene Coleman, Plaintiff(s) | CASE NO: A-23-868466-W
7 vs. | DEPT. NO. Department 6
8 Warden Najera, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 7/25/2023

15 Steven Wolfson motions@clarkcountyda.com
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28



1 NEFF

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 DEMARENE COLEMAN,

6 Petitioner,

7 vs.

8 WARDEN NAJERA; ET.AL.,

9 Respondent,

Case No: A-23-868466-W

Dept No: VI

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

11 PLEASE TAKE NOTICE that on July 25, 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 July 26, 2023.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

17 Amanda Hampton, Deputy Clerk

18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 26 day of July 2023, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

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

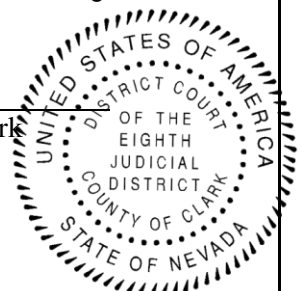
24 ☒ The United States mail addressed as follows:

25 Demarene Coleman # 1007335
26 P.O. Box 208
27 Indian Springs, NV 89070

28 August 2, 2023

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
Chief Deputy District Attorney
Nevada Bar #14408
8200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

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8 without a hearing.").

9 **ORDER**

10 Therefore, COURT ORDERS, Petitioner's Petition for Writ of Habeas Corpus is
11 DENIED and that the State's Countermotion to Dismiss Pursuant to Laches is DENIED as
12 MOOT.

13 ~~DATED this 25th day of July, 2023.~~

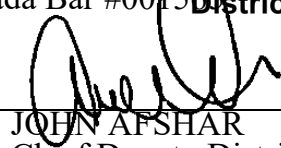
Dated this 25th day of July, 2023

14 
15 _____

16 STEVEN B. WOLESON
17 Clark County District Attorney
18 Nevada Bar #001563
EB28F9 EC11 0143
Jacquelyn M. Bluth
District Court Judge

kj

19 BY

20 
21 JOHN AFSHAR
22 Chief Deputy District Attorney
23 Nevada Bar #14408

#10539 for

24
25
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27
28 Mlb/L5

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Demarene Coleman, Plaintiff(s) | CASE NO: A-23-868466-W
7 vs. | DEPT. NO. Department 6
8 Warden Najera, Defendant(s)
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14 Service Date: 7/25/2023

15 Steven Wolfson motions@clarkcountynyda.com
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