

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARC SCHACHTER  
Appellant,  
vs.  
STATE OF NEVADA  
Respondent.

Supreme Court No. 87042

District Court No. CR-14-1044

FILED

AUG 29 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY [Signature]  
CHIEF DEPUTY CLERK

APPELLANT'S INFORMAL BRIEF

**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may submit your brief for filing in person or by mail.

**To file your brief in person:** Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

**Carson City:** Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

**Las Vegas:** Place your brief in the Clerk's Office Drop Box at the Las Vegas Courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

RECEIVED  
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CLERK OF SUPREME COURT  
DEPUTY CLERK

**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
7-17-23	ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: 7-25-2023

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
CR-14-1044	STATE V. MARC SCHACHTER	2 <sup>ND</sup> JUD. DIST. CT
67673	MARC SCHACHTER V. STATE	NV. SUPREME CT.
84547	MARC SCHACHTER V. STATE	NV. SUPREME CT
86361	MARC SCHACHTER V. DIST. CT.	NV. SUPREME CT.

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes      ☐ No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

FOLLOWING A JURY TRIAL, THE DISTRICT COURT  
SENTENCED APPEALANT TO 12-48 MONTHS FOR THE  
ATTEMPTED ROBBERY. AT SENTENCING, DISTRICT COURT  
ALSO ADJUDICATED APPEALANT A LESSER (SMALL)  
HABITUAL CRIMINAL; AND SENTENCED HIM TO A  
CONCURRENT 5-20 YEARS. ON DIRECT APPEAL, THE  
APPEALANT ARGUED THE CONCURRENT HABITUAL

SENTENCE WAS INCORRECT, THE STATE AGREED. BEFORE THIS COURT ISSUED ITS REMITTUR, THE DISTRICT COURT FILED A "CORRECTED JUDGEMENT" IN 2021, APPEALANT FILED A MOTION TO CORRECT AN ILLEGAL SENTENCE. THE DISTRICT COURT DENIED THE MOTION. ON APPEAL THIS COURT REVERSED THE DENIAL AND ORDERED THE DISTRICT COURT TO VACATE THE CORRECTED JUDGEMENT AND REISSUE A NEW JUDGEMENT (CASE NO. 84547).

BEFORE THIS COURT ISSUED A REMITTUR ON CASE NO. 84547, APPEALANT FILED A PETITION FOR WRIT OF HABEAS CORPUS ON THE SINGLE GROUND THAT THE DISTRICT COURT LACKED JURISDICTION TO RE-IMPOSE THE HABITUAL ENHANCEMENT ONCE THE SENTENCE FOR THE PRIMARY ATTEMPTED ROBBERY CONVICTION HAD EXPIRED. THE DISTRICT COURT ORDERED A SHOW CAUSE ORDER TO THE STATE. THE STATE MOVED TO DISMISS THE PETITION AND ORAL ARGUMENTS WERE HEARD. ON JULY 17, 2023, THE DISTRICT COURT ORDERED THE DISMISSAL OF THE PETITION. PETITIONER FILED A TIMELY NOTICE TO APPEAL AND THIS APPEAL FOLLOWS.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

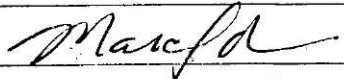
AS THE DISTRICT COURT DID IN ITS DENIAL  
TO CORRECT AN ILLEGAL SENTENCE, THE COURT  
ARGUES THAT THE COURTS "INTENTION"  
OVERCOMES THE JURISDICTIONAL BARS.  
THE DISTRICT COURT WAS WRONG THEN  
AS IT IS NOW. BOTH THE FEDERAL  
AND STATE CONSTITUTIONS PROHIBIT THE  
COURT FROM REIMPOSING OR RESENTENCING  
A DEFENDANT ONCE A LEGAL SENTENCE  
FOR THAT SAME CRIME HAS EXPIRED.

THE DISTRICT COURT MAY NOT USE THE  
EXTENDED TIME OF THE ENHANCEMENT TO  
REIMPOSE THAT VERY SAME ENHANCEMENT.  
ONCE THE PRIMARY SENTENCE EXPIRES,  
THE SENTENCING COURT LOSES JURISDICTION  
TO RESENTENCE. THE DISTRICT COURT HAD  
SIX (6) YEARS TO CORRECT ITS ERROR.

IN ITS FINDINGS OF FACTS AND CONCLUSIONS  
OF LAW, THE DISTRICT COURT IMPLIED THAT  
ITS USE OF "NUNC PRO TUNC" ALONG WITH  
ITS INTENTIONS OVERCOME ITS LACK OF  
JURISDICTION ARE ERROR.

APPEALANT ASKS THIS COURT TO REVERSE  
DISTRICT COURT ORDER TO DISMISS THE  
PETITION FOR WRIT OF HABEAS CORPUS AND  
HOLD AN EVIDENTIARY HEARING; OR IN  
THE ALTERNATIVE ORDER THE DISTRICT  
COURT TO DISCHARGE APPEALANT FROM  
CUSTODY HAVING EXPIRED HIS SENTENCE.

DATED THIS 20<sup>TH</sup> DAY OF AUGUST 2023

  
MARC SCHACHTER

### CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or  
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

ATTORNEY GENERAL  
STATE OF NEVADA  
100 N. CARSON ST.  
CARSON CITY, NV 89701

DATED this 20 day of AUGUST, 2023

  
Signature of Appellant

MARC SCHACHTER  
Print Name of Appellant

405 GRAND CANYON BLVD. #7  
Address

RENO, NV 89502  
City/State/Zip

775-378-1562  
Telephone