

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JOSE VALDEZ-JIMENEZ  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND  
THE HONORABLE MARK B. BAILUS  
DISTRICT JUDGE  
Respondents,

and

THE STATE OF NEVADA,  
Real Party In Interest.

Electronically Filed  
Jun 04 2019 04:37 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO: 76417

AARON WILLARD FRYE,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND  
THE HONORABLE JERRY A. WIESE  
DISTRICT JUDGE  
Respondents,

and

THE STATE OF NEVADA  
NATHAN GRACE,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND  
THE HONORABLE MICHAEL VILLANI  
DISTRICT JUDGE  
Respondents,

and

THE STATE OF NEVADA,  
Real Party In Interest.

CASE NO: 76845

CASE NO: 76947

## NOTICE TO THE COURT REGARDING FEDERAL LITIGATION

In the instant case, Petitioners filed a motion to expedite petitions on March 8, 2019, which this Court granted to the extent its calendar permitted. Thereafter, Petitioner Jose Valdez-Jimenez filed a habeas petition in federal court Case 2:19-cv-005581-RFB-VCF on April 5, 2019, which raises the very same bail issues as in the present case. The federal matter was expedited, briefed, and orally argued to Judge Boulware on May 7, 2019. Part of the State's response in federal court was to invoke the Younger abstention doctrine in light of the instant pending mandamus proceeding. Now, Valdez-Jimenez has filed a notice in federal court alerting Judge Boulware that a trial date has been set in the district court below for August 12, 2019, and asking the federal court to rule as soon as is reasonably possible to avoid irrevocable prejudice. Exhibit 1.

While keeping the federal court informed, Petitioner has not similarly apprised this Court of intervening events which bear on its previous order granting the motion to expedite. Accordingly, the State respectfully submits the instant Notice to alert this Court not only to the pending trial date below, but also to the existence of the federal habeas proceeding and Petitioner's request for expedited relief in that forum which may preempt and render the instant mandamus proceeding moot. Under principles of federal comity, should this Court intend to decide the

merits of any federal constitutional issue in the instant case, there is value in doing so with expediency prior to any federal intervention.

Dated this 4<sup>th</sup> day of June, 2019.

Respectfully submitted,

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY /s/ Steven S. Owens  
STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar #004352  
Office of the District Attorney  
Regional Justice center  
200 Lewis Avenue  
Post Office Box 552212  
Las Vegas, Nevada 89155  
(702) 671-2750

## CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on June 4, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD  
Nevada Attorney General

NANCY M. LEMCKE  
CHRISTY L. CRAIG  
Deputy Public Defenders

CHARLES LEWIS GERSTEIN, ESQ.  
*Pro Hac Vice*  
Civil Rights Corps.

STEVEN S. OWENS  
Chief Deputy District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

HONORABLE MARK B. BAILUS  
Eighth Judicial District Court, Dept. 18  
Phoenix Building  
330 S. Third Street, CTRM 110  
Las Vegas, Nevada 89101

HONORABLE JERRY A. WIESE  
Eighth Judicial District Court, Dept. 30  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89101

HONORABLE MICHAEL P. VILLANI  
Eighth Judicial District Court, Dept. XVII  
Regional Justice Cnter  
200 Lewis Avenue  
Las Vegas, Nevada 89101

*/s/ E. Davis*

\_\_\_\_\_  
Employee, Clark County  
District Attorney's Office

SSO/Andrea Orwoll/ed

EXHIBIT 1

EXHIBIT 1

1 Charles Gerstein (*pro hac vice*)  
2 Olevia Boykin (*pro hac vice*)  
3 Civil Rights Corps  
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5 Washington, DC 20006  
6 charlie@civilrightscorps.org  
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16 (702) 455-5039  
17 (702) 455-2728

18 **UNITED STATES DISTRICT COURT**  
19 **FOR THE DISTRICT OF NEVADA**

20 JOSE VALDEZ-JIMENEZ,

21 Petitioner,

22 v.

23 Sheriff JOSEPH LOMBARDO,  
24 Clark County Sheriff,

25 Respondent.

CASE NO. 2:19 CV 581

**NOTICE OF UPCOMING TRIAL  
AND REQUEST FOR EXPEDITED  
RULING**

1           Petitioner Jose Valdez-Jimenez respectfully submits this Notice to alert the Court that a  
2 trial has been scheduled in the State prosecution against him, and to respectfully ask that the  
3 Court rule on his Petition as soon as is reasonably possible.

4           Petitioner was arrested on May 28, 2018, and has been incarcerated ever since. He filed  
5 the instant Petition on April 5, 2019. (Doc. 1.) On April 12, 2019, this Court granted Petitioner's  
6 emergency motion to expedite consideration of this case. (Doc. 12.) "The Court [found] that  
7 Petitioner has been incarcerated for ten months," that he "has had a petition pending in state  
8 court since July 2018," and that his federal "petition for relief merits immediate attention." (*Id.*  
9 at 1.) Petitioner's criminal trial is now scheduled for August 12, 2019. (Ex. A, Register of  
10 Actions.)

11           Petitioner may be irrevocably prejudiced if this Court does not rule on his Petition soon.  
12 Unless his August 12 trial ends in a mistrial, Petitioner will either be acquitted and released or  
13 convicted and sentenced; either way, his pretrial detention will be over, and this Petition will  
14 be moot. In the interim Petitioner is being jailed without the protections required by the  
15 Constitution, and if this Court does not rule shortly, Petitioner will have suffered all of the harm  
16 that this Court's ruling could have cured. Unless this Court rules extremely soon, the party  
17 against whom this Court rules will permanently lose the right to appeal this Court's ruling. *E.g.*,  
18 *Burnett v. Lampert*, 432 F.3d 996, 1001 (9th Cir. 2005) (holding that habeas is unavailable  
19 where petitioner was released and reincarcerated pending consideration of petition). And if  
20 Petitioner is convicted at trial and sentenced to prison before this Court's ruling, he will not be  
21 able to say goodbye to his family and to settle his affairs before his sentence. *Cf. Ragbir v.*  
22 *Sessions*, No. 18-CV-236 (KBF), 2018 WL 623557, at \*1 (S.D.N.Y. Jan. 29, 2018) ("There is,  
23 and ought to be in this great country, the freedom to say goodbye. That is, the freedom to hug  
24 one's spouse and children, the freedom to organize the myriad of human affairs that collect over  
25 time.").

1           Undersigned counsel understand that the Court has many other pending matters, and for  
2 that reason counsel apologize for any burden this emergency Petition may create for the Court's  
3 docket. Counsel sincerely appreciate the Court's prompt scheduling of argument on this matter.  
4 Petitioner remains illegally incarcerated every day that this Petition remains pending, and so it  
5 is indeed an emergency. Accordingly, Petitioner respectfully requests that this Court rule as  
6 soon as possible.

7       Dated: June 3, 2019

/s/ Charles Gerstein

Charles Gerstein

(pro hac vice)

Olevia Boykin

(pro hac vice)

Civil Rights Corps

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# Case 2:19-cv-00581-RFB-VCJ Document 19-1 Filed 06/03/19 Page 1 of 4

## REGISTER OF ACTIONS

CASE NO. C-18-33227-1

State of Nevada vs Jose Valdez-Jimenez

§  
§  
§  
§  
§  
§  
§  
§  
§

Case Type: **Felony/Gross Misdemeanor**

Date Filed: **05/24/2018**

Location: **Department 29**

Cross-Reference Case Number: **C332277**

Defendant's Scope ID #: **7521605**

Grand Jury Case Number: **17BGJ120X**

ITAG Case ID: **1988345**

### PARTY INFORMATION

<b>Defendant</b>	<b>Valdez-Jimenez, Jose</b>	<b>Lead Attorneys</b> <b>Public Defender</b> <i>Â Â Public Defender</i> 702-455-4685(W)
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Steven B Wolfson</b> 702-671-2700(W)

### CHARGE INFORMATION

Charges: Valdez-Jimenez, Jose	Statute	Level	Date
1. BURGLARY	205.060.2	Felony	02/23/2018
2. GRAND LARCENY	205.222.2	Felony	02/23/2015
3. BURGLARY	205.060.2	Felony	03/15/2018
4. GRAND LARCENY	205.222.2	Felony	03/15/2018
5. BURGLARY	205.060.2	Felony	03/20/2018
6. GRAND LARCENY	205.222.2	Felony	03/20/2018
7. BURGLARY	205.060.2	Felony	04/02/2018
8. GRAND LARCENY	205.222.2	Felony	04/02/2018
9. BURGLARY	205.060.2	Felony	04/12/2018
10. PARTICIPATE IN ORGANIZED RETAIL THEFT	205.08345.1a	Felony	02/23/2018

### EVENTS & ORDERS OF THE COURT

#### DISPOSITIONS

07/24/2018 **Disposition** (Judicial Officer: Jones, David M)

05/31/2018 **All Pending Motions** (9:00 AM) (Judicial Officer Bailus, Mark B)  
Parties Present  
**Case 2:19-cv-00581-RFB-VCF Document 19-1 Filed 06/03/19 Page 2 of 4**  
Minutes  
Result: Matter Heard

06/05/2018 **Motion for Own Recognizance Release/Setting Reasonable Bail**  
*Motion To Vacate Detention Order And Release The Defendant From Custody*

06/08/2018 **Transcript of Proceedings**  
*Reporter's Transcript of Proceedings, Grand Jury Hearing, Volume 1, May 16, 2018*

06/08/2018 **Transcript of Proceedings**  
*Reporter's Transcript of Proceedings, Grand Jury Hearing, Volume 2, May 23, 2018*

06/11/2018 **Opposition to Motion**  
*State's Opposition to Defendant's Motion for Own Recognizance Release or Reasonable Bail*

06/12/2018 **Motion for Own Recognizance Release/Setting Reasonable Bail** (9:00 AM) (Judicial Officer Bailus, Mark B)  
*Motion for Own Recognizance Release / Trial Setting*  
Parties Present  
Result: Matter Continued

06/12/2018 **Motion to Vacate** (9:00 AM) (Judicial Officer Bailus, Mark B)  
*Defendant's Motion To Vacate Detention Order And Release The Defendant From Custody*  
Parties Present  
Result: Matter Continued

06/12/2018 **All Pending Motions** (9:00 AM) (Judicial Officer Bailus, Mark B)  
Parties Present  
Minutes  
Result: Matter Continued

06/14/2018 **Motion to Vacate** (9:00 AM) (Judicial Officer Bailus, Mark B)  
*Defendant's Motion To Vacate Detention Order And Release The Defendant From Custody*  
Parties Present  
Result: Matter Continued

06/14/2018 **Motion for Own Recognizance Release/Setting Reasonable Bail** (9:00 AM) (Judicial Officer Bailus, Mark B)  
*Defendant's Motion for Own Recognizance Release / Trial Setting*  
Parties Present  
Result: Matter Continued

06/14/2018 **Addendum**  
*Addendum to Defendant's Motion to Vacate Detention Order and Release from Custody*

06/14/2018 **All Pending Motions** (9:00 AM) (Judicial Officer Bailus, Mark B)  
Parties Present  
Minutes

07/02/2018 *Petition For Writ Of Habeas Corpus*  
**Case Reassigned to Department 18**  
*Reassigned From Judge Bailus - Dept 18* **Case 2:19-cv-00581-RFB-VCF Document 19-1 Filed 06/03/19 Page 3 of 4**

07/06/2018 **Recorders Transcript of Hearing**  
*Recorder's Transcript of Hearing Re: Defendant's Motion to Vacate Detention Order and Release the Defendant from Custody; Defendant's Motion for Own Recognizance Release or Reasonable Bail/Trial Setting*

07/09/2018 **Return**  
*State's Return to Writ of Habeas Corpus*

07/12/2018 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer Jones, David M)  
**07/12/2018, 07/19/2018**  
*Defendant's Petition for Writ of Habeas Corpus*  
Parties Present  
Minutes  
07/12/2018 Reset by Court to 07/12/2018  
Result: Matter Continued

07/16/2018 **Order**  
*Order For Writ Of Habeas Corpus*

07/17/2018 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Jones, David M)  
*Vacated - per Judge*  
07/17/2018 Reset by Court to 07/17/2018

07/17/2018 **Writ**  
*Writ Of Habeas Corpus*

07/24/2018 **Amended Indictment**  
**AMENDED INDICTMENT**

07/27/2018 **Order**  
*Order Granting Defendant Jose Valdez-Jimenezs Petition For Writ Of Habeas Corpus*

08/02/2018 **Motion to Compel**  
*Motion To Compel Production Of Discovery & Brady Material*

08/14/2018 **Opposition to Motion**  
*State's Opposition to Defendant's Motion to Compel Production of Discovery & Brady Material*

08/21/2018 **Motion to Compel** (8:30 AM) (Judicial Officer Jones, David M)  
**08/21/2018, 09/11/2018**  
*Defendant's Motion To Compel Production Of Discovery & Brady Material*  
Parties Present  
Minutes  
Result: Matter Continued

09/04/2018 **CANCELED Jury Trial** (1:00 PM) (Judicial Officer Jones, David M)  
*Vacated - per Judge*  
07/23/2018 Reset by Court to 09/04/2018

02/05/2019, 05/07/2019

Parties Present

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Minutes

Result: Matter Continued

02/05/2019 **Motion to Continue Trial** (8:30 AM) (Judicial Officer Jones, David M)  
*Defendant's Motion to Continue Trial Date*

03/05/2019 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Jones, David M)  
*Vacated*

03/18/2019 **CANCELED Jury Trial** (1:00 PM) (Judicial Officer Jones, David M)  
*Vacated*

06/04/2019 **Status Check: Trial Readiness** (8:30 AM) (Judicial Officer Jones, David M)

07/09/2019 **Pre Trial Conference** (8:30 AM) (Judicial Officer Jones, David M)

08/06/2019 **Calendar Call** (8:30 AM) (Judicial Officer Jones, David M)

08/12/2019 **Jury Trial** (1:00 PM) (Judicial Officer Jones, David M)