

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed
Jan 04 2022 10:58 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

STATE OF NEVADA,

PLAINTIFF,

vs.

ANTHONY CLARKE,

DEFENDANT.

Sup. Ct. Case No. 83839

Case No. CR19-1352

Dept. 15

RECORD ON APPEAL

VOLUME 4 OF 6

DOCUMENTS

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RESPONDENT

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SUNSHINE LITIGATION
 151 Country Estates Circle
 Reno, Nevada 89512

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
 IN AND FOR THE COUNTY OF WASHOE
 BEFORE THE HONORABLE DAVID N. HARDY, DISTRICT JUDGE

- o0o -

STATE OF NEVADA,	:	
	:	
Plaintiff,	:	
	:	
vs	:	Case No. CR19-1352
	:	
ANTHONY CLARKE,	:	Dept. No. 15
	:	
Defendant.	:	
	:	

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TRANSCRIPT OF PROCEEDINGS

SENTENCING

MONDAY, NOVEMBER 25TH, 2019

Reno, Nevada

Reported By: ERIN T. FERRETTO, CCR #281

A P P E A R A N C E S

FOR THE PLAINTIFF:

MARIAH NORTHINGTON, ESQ.
Deputy District Attorney
One South Sierra Street
Reno, Nevada

FOR THE DEFENDANT:

In Pro Per

ALSO PRESENT:

LORENA VALENCIA, ESQ.
Deputy Public Defender
350 S. Center Street
Reno, Nevada

PAROLE AND PROBATION:

ROBERT GLASS

**

SUNSHINE LITIGATION

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1 -o0o-

2 RENO, NEVADA, MONDAY, NOVEMBER 25TH, 2019, 11:10 A.M.

3 -o0o-

4
5
6 THE COURT: We'll now turn to Mr. Clarke,
7 CR19-1352.

8 Ms. Valencia, if you'll actually pass the bar and
9 just stand there --

10 MS. VALENCIA: Okay.

11 THE COURT: -- versus standing next to the aisle.
12 And you are not required to do or say anything, but if at
13 any time Mr. Clarke wishes to consult with you privately,
14 I will give that opportunity.

15 Mr. Clarke appears on his own behalf.

16 I am so embarrassed --

17 MS. NORTINGTON: Ms. Northington.

18 THE COURT: I know, I'm looking at the notes, I
19 didn't acknowledge you when I saw all the attorneys out
20 there who were here and going off cases.

21 So Ms. Northington is present. You have read,
22 Mr. Clarke and Ms. Northington, the order I entered
23 denying the motion to withdraw the guilty plea. It
24 speaks for itself. I have nothing else to say.

1 This is the time set for entry of judgment and
2 imposition of sentence.

3 Mr. Clarke, have you had a chance to review the
4 Presentence Investigation Report? And, if so, do you
5 have any corrections to make?

6 MR. CLARKE: Yes, I do, your Honor.

7 THE COURT: Please.

8 MR. CLARKE: May I pass this to you?

9 THE COURT: No, I don't want -- Deputy, just if
10 you'll -- let's see -- I'm not going to tell you how to
11 do your job.

12 Hand it to Ms. Valencia, if you would please,
13 Mr. Clarke.

14 Ms. Valencia will hand it to Ms. Northington.
15 Is there a copy for me?

16 MR. CLARKE: No. I don't have access to copy
17 machines.

18 THE COURT: Tell me what it is, please.

19 MR. CLARKE: Correction of some of the facts found
20 in the PSI report.

21 THE COURT: Okay.

22 THE DEFENDANT: And I pointed out a few things
23 that I could under the time and --

24 MS. NORTHINGTON: Your Honor, may I approach?

1 THE COURT: Thank you.

2 THE DEFENDANT: First page -- give me a second to
3 get it together here. Give me a moment.

4 It says I have 10 felony convictions. I've never
5 been convicted for 10 felonies in my life. And I can
6 point out a few things on page four.

7 In 1977 -- they start from 1977, each one of these
8 on page four, they have no case numbers at all.

9 On page seven where it says 8/2/12 in Hawthorne,
10 California, they counted them as felonies but they're
11 misdemeanors.

12 Also, on 5/18/13 it says first-degree burglary is
13 a felony but there's no case number.

14 The same thing applies up under that, it says
15 4/12/15, disorderly conduct, there's no case number, a
16 misdemeanor.

17 The same thing up under that shoplifting,
18 misdemeanor, there's no case number.

19 THE COURT: So your position is that if there's no
20 case number the crime did not occur?

21 MR. CLARKE: I'm saying it's not me.

22 THE COURT: Okay.

23 THE DEFENDANT: Also, if you look at page eight,
24 each one of the Nevada convictions has case numbers.

1 Page nine, they claim it's a felony but it was
2 reduced to a misdemeanor; in fact, it was reduced to a
3 gross misdemeanor.

4 THE COURT: Which one are you referring to, sir?

5 THE DEFENDANT: The Reno case number, CR16-1968 on
6 page nine.

7 And on page ten, under CR17-1138, that's a
8 misdemeanor -- wait. Excuse me. No, that's correct.

9 THE COURT: Okay.

10 THE DEFENDANT: Then you have the instant case,
11 which is a CR19-1352.

12 And the PSI report also indicates that I have
13 47 -- 37 misdemeanors. That's not true, your Honor. I
14 don't have 37 misdemeanors.

15 It also says I have prison 13 times. I've only
16 had one prison number and that's a C number back in
17 California. I've never had 13 convictions in prison.

18 At this point, your Honor, may I speak?

19 THE COURT: Yes, sir.

20 THE DEFENDANT: I'd like to invoke my right to
21 counsel, Ms. Valencia.

22 THE COURT: No. We're past that.

23 THE DEFENDANT: Okay.

24 THE COURT: We've gone past that. And when I had

1 the *Faretta* canvass, I was very clear. You may proceed
2 on your own behalf as you requested.

3 THE DEFENDANT: Okay. On page ten it says that I
4 was arrested for following --

5 THE COURT: Ms. Northington -- excuse me, sir --
6 Ms. Northington, are you aware of any authority which
7 would compel me to reconstitute counsel simply upon his
8 request?

9 MS. NORTHINGTON: No, your Honor.

10 THE COURT: Thank you.

11 I should note that I believe that there is
12 some either uninformed choices that we examined during
13 the *Faretta* canvass or there's intentional gamesmanship,
14 one of the two, and based upon the entirety of this
15 record, his request for counsel at the moment of his
16 sentencing will be denied.

17 MS. NORTHINGTON: Your Honor, if I may, I do
18 remember at the *Faretta* canvass that occurred on
19 October 23rd, and I believe you specifically indicated to
20 him that should this matter proceed to sentencing today
21 he would be proceeding in proper person and he
22 acknowledged that at that time.

23 THE COURT: Thank you.

24 You may continue. I want to hear from you but I

1 also want to create a record.

2 THE DEFENDANT: Okay. Page ten of the PSI, it
3 says that I was arrested for the following charges, was
4 never convicted. I have no recollection of any of that.
5 And that's what I want to bring to the court's attention.

6 THE COURT: Thank you.

7 Anything else?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Do you have any comments about the
10 underlying sentence -- or the sentence that you wish the
11 court to impose?

12 THE DEFENDANT: Well, your Honor, I'd like to say
13 that I admit to my guilt, I did it, I'm not trying to
14 minimize what I did, but I'm -- I'm 60 years old and I
15 have a drug problem. And I understand that I must pay
16 for my crime. And I'm sincere here today and I've always
17 been sincere.

18 I took a few steps where I could at the county
19 jail to enroll in classes. I also contacted a few people
20 that can possibly help me enroll. I'm basically -- I'm
21 willing to take my punishment, you know, straight out. I
22 did what I did. And I'd like to apologize to the
23 victims. I'd like to apologize to my family, my
24 children. And I appreciate the court. I submit it on

1 that.

2 THE COURT: You're very likeable.

3 THE DEFENDANT: I try my best. It's my
4 personality. It's naturally like this. This is not a
5 fake. I don't have to -- I don't have to fake.

6 And I've never had a program. I've never had a
7 program. I successfully completed one in Los Angeles
8 County. It was an outpatient program, I successfully
9 completed it, and I'd like to try again if it's possible,
10 you know. I can even do five years' probation.

11 Also, I have two jobs lined up. I could verify
12 those. I do what I can do and I would love to have an
13 opportunity to do it again.

14 THE COURT: In a moment, Ms. Northington, let me
15 turn to the Division because I know you're bound -- well,
16 I believe that you have negotiations which will govern
17 your comments.

18 MS. NORTHINGTON: Yes, your Honor.

19 THE COURT: To the Division, Mr. Clarke has
20 suggested that you got his Presentence Investigation
21 Report wrong in many respects, do you have any response
22 to him?

23 MR. GLASS: Your Honor, during -- on September 10,
24 2019, when he was interviewed, he was presented his

1 Nevada criminal history. Unfortunately, his California
2 history was not presented and all his California cases
3 were based off his NCIC record that we had. And a lot of
4 his offenses were -- didn't have any case numbers back
5 from the 1970s to I think the 80s.

6 THE COURT: I think his first one was 1980.

7 MR. GLASS: And he had -- let's see. I believe --
8 he had 1977 when he started.

9 THE COURT: Oh. I thought I saw the rape charge
10 in 1980. Let me look to see if I missed --

11 MR. GLASS: He's had --

12 THE COURT: Oh. I was looking at the wrong page.
13 You're correct, 1977.

14 MR. GLASS: That's when it started, from May 1977,
15 and most of those cases look like those cases --

16 THE COURT: But you would confirm that this
17 information was gleaned from the NCIC report?

18 MR. GLASS: Yes, your Honor. Unfortunately, it's
19 very difficult to get the case disposition from
20 California. Usually they incur charges when you're
21 requesting documents and at this point the Division
22 doesn't pay for court documents.

23 THE COURT: Okay. Anything else?

24 MR. GLASS: Then he did participate in treatment,

1 looks like as stated on -- there was -- the court's
2 indulgence -- it was a substance abuse treatment in
3 Nevada for PCP and methamphetamine, but he did not
4 complete it.

5 THE COURT: And so the Division is recommending
6 36 to 96 months, which is more than what the attorneys
7 negotiated. Can you shed any light on why the 36-to-96?

8 MR. GLASS: From the recommendations, they are
9 doing it based off the 10 felony convictions.

10 THE COURT: So it's just a formula where the data
11 is inputted -- I don't mean to say *just inputted* because
12 not I'm implying anything wrong about it, but this was
13 pushed through that matrix that you use and that's what
14 the result was?

15 MR. GLASS: Correct, your Honor.

16 THE COURT: Ms. Clerk will cause this document to
17 be admitted -- marked and admitted.

18 Let me look at the next one.

19 There is a handwritten letter that I'd like to be
20 admitted, Ms. Clerk, to include a ACCS form indicating
21 five substance abuse treatment classes.

22 Ms. Northington?

23 MS. NORTHINGTON: Thank you, your Honor. Very
24 briefly.

1 As to the defendant's challenges to the PSI, I was
2 unaware that he was going to make such challenges. But
3 while I was sitting here listening to it, I did review
4 his NCIC from California and Nevada, and based on my very
5 brief overview it seems to be consistent with what is
6 reflected in the PSI regarding a criminal history dating
7 back to 1977 with at least 10 felonies since.

8 This case was negotiated to a joint recommendation
9 of 12 to 36 months with Mr. Clarke's previous counsel,
10 Ms. Valencia; that negotiation was based primarily on two
11 balancing factors. One is the defendant's egregious
12 lifelong criminal history, which shows that since 1977
13 he's either been committing crimes or in prison or about
14 to commit crimes with the facts of this case. He went
15 into a store -- I'm sorry -- a restaurant and he stole
16 \$35.

17 THE COURT: So who negotiated the case on State's
18 behalf?

19 MS. NORTHINGTON: I did.

20 THE COURT: Were you aware that he had 47 prior
21 criminal convictions at the time of you negotiated this
22 case?

23 MS. NORTHINGTON: I was aware that he had an
24 extensive criminal history, but I was not aware of the

1 specifics. The California criminal history is very
2 difficult to read with how we run it, but I was aware
3 that he did have an extensive criminal history.

4 THE COURT: I'm asking you, because you told me
5 that there was this balance, what appears to be de
6 minimis conduct in isolation with his a longitudinal
7 criminal history --

8 MS. NORTINGTON: Yes.

9 THE COURT: -- and I'm glad you're here as the
10 negotiating attorney, but the Division is asking that I
11 remove him from our community because after 47 times it's
12 just too many.

13 MS. NORTINGTON: I understand, and I can
14 understand why they gave that recommendation. I respect
15 their recommendation but it was negotiated due to the
16 facts of the case. It was \$35. The \$35 was returned to
17 the victim that night.

18 The victims in this case are the Taste of Chicago
19 restaurant and the store clerk that was working. She has
20 been notified of today; she did not want to be here
21 today.

22 It was primarily because of the facts of the case
23 that we negotiated it for the sentence that we negotiated
24 it for.

1 THE COURT: You say the \$35 was returned, but it
2 was returned after the owner had chased him and tackled
3 him, and then there was some person-to-person contact?

4 MS. NORTINGTON: Yes.

5 THE COURT: It seems to me to be a dangerous set
6 of ingredients.

7 MS. NORTINGTON: I would agree with you, your
8 Honor.

9 THE COURT: Anything else?

10 MS. NORTINGTON: No, your Honor. Thank you.

11 THE COURT: Thank you.

12 THE DEFENDANT: Yes, your Honor, may I speak?

13 THE COURT: Yes.

14 THE DEFENDANT: Specifically about the money being
15 returned, Mr. Pito received the money from me as soon as
16 I came out the door. He didn't have to chase me. Him
17 and his customer came out -- first the customer came out
18 and Mr. Pito came. He asked for the money and I gave it
19 back. This is what the video shows.

20 The witnesses testified in their own statement
21 that -- I'm not trying to have a trial, I'm just bringing
22 the facts to the court's attention that was not submitted
23 into evidence -- the customer came out and then Mr. Pito
24 came out, asked me for the money. I gave him the money.

1 Not only did I give him that money, there was other money
2 that was also -- I had over \$600 on me. When I left,
3 350 -- 377, which I was booked into the county jail with,
4 but the money was given back and they didn't have to
5 fight me and none of that, because Mr. Pito gave a
6 witness statement saying that he held me down and I
7 refused to aggress towards him. The money was already
8 given back.

9 And there was another issue that I don't like --
10 that I'm going to bring to the court's attention. There
11 was more than Mr. Pito there -- it was him, one of his
12 workers and a customer. They were all on the scene when
13 the police arrived.

14 And this is the last point I'd like to make. I
15 don't want to argue the case. I admit to what I've done
16 but it was a report of a fight that took place, not a
17 report of a tip jar being taken. But when the police
18 arrived, no one spoke about a fight. The actual fact was
19 that not only was money given back to him, money out of
20 my pocket was also taken. I would say two-thirds,
21 almost \$400 taken from me. Again, I deserved it because
22 of what I've done. But that's all I'd like to say.

23 THE COURT: Thank you.

24 THE DEFENDANT: I'm kind of nervous.

1 THE COURT: You're doing great.

2 THE DEFENDANT: Thank you.

3 THE COURT: It is the judgment of this court that
4 Mr. Clarke be adjudicated guilty of the offense. He will
5 pay a \$25 administrative assessment fee, a \$3 DNA
6 administrative assessment, an attorney's fee of \$500.

7 He is sentenced to a minimum of 28 months in the
8 Nevada Department of Corrections, with a maximum of
9 96 months. That top tail is very important, because
10 after 43 years of substantial criminal energy, not all of
11 which are substantial crimes but there's been a pattern
12 of just criminality, somebody needs to make the decision
13 about whether our community continues to be imperiled.

14 Now, I have just given you a sentence you don't
15 like, I'm confident, but I meant what I said. I've very
16 much enjoyed having you in court, and watching and
17 listening to you. I think you have done well vindicating
18 your own interests. But it is time, Mr. Clarke, from my
19 perspective, to remove you from our community so that we
20 don't have these types of crimes occurring.

21 THE DEFENDANT: May I ask a question, please?

22 THE COURT: Yes, sir.

23 THE DEFENDANT: What was that sentence again, your
24 Honor?

1 THE COURT: Ms. Clerk?

2 THE CLERK: 28 --

3 THE COURT: To 96?

4 THE CLERK: Correct.

5 THE COURT: 28 to 96, which is less than the
6 Division of Parole & Probation has recommended.

7 THE DEFENDANT: Okay. Your Honor, thank you. I'd
8 like to submit a notice of appeal.

9 THE COURT: You do whatever you wish.

10 THE CLERK: Credit?

11 THE COURT: Yes. Credit for time served,
12 Ms. Clerk, I don't have -- here it is.

13 MR. GLASS: Yes, your Honor. Credit for time
14 served is 136 days.

15 THE COURT: 136 days.

16 Ms. Valencia, you can hand him a document.

17 MS. VALENCIA: Yes, your Honor. It's the notice
18 of appeal that he just referenced. Would you like it --

19 THE COURT: We will take it. I'll make sure the
20 judgment of conviction is entered first, and then file
21 the notice of appeal.

22 Thank you. Hand it to the clerk, please.

23 MS. NORTHINGTON: Thank you, your Honor.

24 THE COURT: Thank you, Mr. Clarke.

1 Thank you, Ms. Northington.

2 All right, Mr. Silverberg. I've waited as long as
3 I can.

4 You're free to go, Mr. Clarke.

5 THE DEFENDANT: Thank you.

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, ERIN T. FERRETTO, an Official Reporter
5 of the Second Judicial District Court of the State of
6 Nevada, in and for the County of Washoe, DO HEREBY
7 CERTIFY:

8 That I was present in Department No. 15 of
9 the above-entitled Court on MONDAY, NOVEMBER 25TH, 2019,
10 and took verbatim stenotype notes of the proceedings had
11 upon the matter captioned within, and thereafter
12 transcribed them into typewriting as herein appears;

13 That the foregoing transcript is a full,
14 true and correct transcription of my stenotype notes of
15 said proceedings.

16 That I am not related to or employed by any
17 parties or attorneys herein, nor financially interested
18 in the outcome of these proceedings.

19
20 DATED: This 2nd day of April, 2020.

21
22 /s/ Erin T. Ferretto

23 _____
 ERIN T. FERRETTO, CCR #281

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-04-04 08:10:06.166.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-04-04 08:10:06.275.
LORENA VALENCIA, PD - Notification received on 2020-04-04 08:10:06.259.
CAROLYN TANNER, ESQ. - Notification received on 2020-04-04 08:10:06.213.
DIV. OF PAROLE & PROBATION - Notification received on 2020-04-04 08:10:06.197.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

04-04-2020:08:07:05

Clerk Accepted:

04-04-2020:08:09:35

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Transcript
Transcript
Transcript - Sealed
Transcript

Filed By:

Erin T. Ferretto

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Anthony Clarke
(Name)
1192204
(I.D. No.)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Movant, In Proper Person

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Anthony Clarke # 1192204

Plaintiff/Movant

vs.

STATE OF NEVADA

Defendant/Respondent

Case No.: CR19-1352

Motion For Leave To File

Motion Pursuant To Rule 23.1
OF The Second Judicial District Court

COMES NOW, Anthony Clarke, in proper person and herein
above respectfully moves this Honorable Court for a(n) Granting the Movant Request
Leave to file the attached Motion pursuant to NRS 176.555
(Sentence Modification).

The instant motion is made and based upon all papers and pleadings on file herein as well
as the following Memorandum of Points and Authorities and attached exhibits (where
applicable).

MEMORANDUM OF POINTS AND AUTHORITIES

Rules of Practice for the Second Judicial District Court Rule 23.1

✓ When a party has appeared by counsel,
that individual cannot thereafter appear
on his own behalf in the case without
the consent of the court.

Rule 23.1

//

//

The Movant is not trained in the letter of the law, thus "A pro se
complaint," however, inartfully pleaded, "must be held to 'less
stringent standards than formal pleading's crafted by lawyers, (see)
Gravatt v. United States, 100 Fed Claims @ 285.

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The Movant is currently on direct Appeal and represented by counsel in the Nevada Supreme Court case # 80130. However, I want to file the attached Sentence Modification Motion pursuant to NRS 176.555.

Respectfully submitted

Anthony Clarke

In pro se.

Dated this 15 day of April, 20 20.

By: Anthony Clarke

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP Rule 5(b), I hereby certify that on this date I did serve a true and correct copy of the foregoing document: Motion pursuant to NRS 176.555, upon the following:

Dated this 15 day of April, 20 20.

Clerk of Courts
Second Judicial District
75 Court Str
Reno NV 89501

AND

Christopher J. Hicks #7747
1 South Sierra Str
Reno NV 89501

BY: Anthony Clarke
Anthony Clarke
NNLC P.O. Box 7000
Carson City, NV 89702
 In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that that the foregoing document DOES NOT contain the social security number of any persons.

4 - 15 - 20

(Date)

Anthony Clarke
 (Signature)

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Sentence Modification NRS 176.555
(Title of Document)

Filed in District Court Case No. CR19-1352

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-OR-

B. For the administration of a public program or

Anthony Clarke
(Signature)

4-15-20

(Date)

Code 2383

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

THE STATE OF NEVADA,

Plaintiff(s),

Case No. CR19-1352

vs.

Dept. No. 15

ANTHONY CLARKE,

Defendant(s).

_____ /

SENTENCE MODIFICATION MOTION

CR Case NO. CR 19-1352
V4-510 ROOM

2.

3. SECOND JUDICIAL DISTRICT COURT

4. OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

5.

Anthony Clarke

Petitioner,

(v.).

STATE OF NEVADA,

RESPONDENT,

) CR Case NO. # CR 19-1352

) Sentence Modification

) Motion

) NRS 176.555

)

)

)

Comes Now The Above Named Petitioner Proceeding Pro
se Informa pauperis (see) NRS 12015 (see) 28 USC § 1915

(a)-(b) (4) Nonetheless, under no circumstances can a prisoner
without means to pay the initial filing fee be prevented from
filing suit, Pierce v. Cnty. of Orange, 519 F.3d.985, 1001, (9th
Cir. (see also) Bounds v. Smith, 430 US § 825 (1977) And
Lewis v. Casey, 518 US § 343, 353 (1996) Access to Court's,
And Ward v. OKI. State, 176 OKI.368, 56 P.2d. 136, 137 And
Bowling v. U.S., 191 Fed. Rep. 22, And Hallowell v. U.S., 221 US §
317, (see) Phillips v. Hust, 477 F.3d. 1070, 1076-77 (9th Cir. 2007).

With The Passage of AB 236, signed June 17, 2019 retro-
spective, is in actuality retroactive to AB 510 "A sub-
stantial decision that applies retroactively to a prisoner's
case on collateral review. (see) Teague v. Lane, 489 US §
288, 310, 109 S.Ct. 1060 as the Teague was not a procedural

decision, as it affected the reach of the underlying statute rather than the Judicial Procedure by which the statute was applied, And the Teague balance did not depend on whether the underlying Constitutional Guarantee was procedural or substantial, but instead on whether, the new rule, itself had a procedural or substantial function, A Substantial decision or LAW AB 236 is retroactive, Which would mean that the 40% percent towards the minimum portion of "said Sentence, similar to Vonseydewitz v. Warden Robert Leg rane (66159) Lovelock Correctional Facility, which was won on a Writ of Mandamus, NRS 34.160 (2015) en banc State Supreme Court. So NRS 34.724(2)(C) Good, Work, and meritorious Time that no State can deprive any person of Life, Liberty, or Property without the minimum procedural due process clause of the XIVth Amdt to the United States Constitution (see) Wolff v. McDonnell 418 US 539, 556-559 (1974) "The Touchstone of Due Process is protection of the individual against arbitrary action of Government." The Rule is Cardinal and Universal, that if a Law is plainly unambiguous, there is no room for Construction or interpretation (see) Brown v. Davis, 1 Nev 409, 413 (1865) (see) Vitek v. Jones, 445 US 480, 493 (1980) (conviction and sentencing deprive person of right to freedom from confinement.), Liberty interest. The Petitioner is not trained in the Letter of the Law, thus "A Rose - complaint," however inartfully pleaded, "must be held to 'less stringent standards than formal pleading's crafted by lawyers, (see) Grawatt v. United States, 100 Fed Claims 94, 851

1. (2014) 512 Process of Law, and pursuant to the Nevada Constitution (New
2. Constitution and NRS Statutes created in 1963, Article
3. 1 Section 8, And The Fourteenth Amendment of the United
4. States Constitution XIVth Amdt to U.S.C.A. due Process clause
5. That Pursuant to NRS 176.555, to correct an illegal sentence,
6. or for Sentence modification (see) Edwards v. State,
7. 918 P.2d. 321, 112 Nev. 704, "time constraints and procedural
8. defaults necessarily do not apply". (see) U.S. v. Doe 351
9. F.3d. 929, 932 (9th Cir. 2003) (COURT HAS Jurisdiction because
10. Petitioner raised violation of Law Question, AB236) I Submit.

11. VERIFICATION

12. I Understand the Contents of ~~prose~~
13. This motion, for correction of
14. Sentence under NRS 176.555,
15. And NRS 34.724(2)(C) And Believes Them To Be True (see)
16. NRS 53.045.

17. AFFIRMATION Pursuant to NRS 239B.030

18. That Nowhere in this legal instrument is
19. there any mentioned of Anyones Social Security Number

20. CERTIFICATE OF SERVICE BY MAIL

21. I Hereby Certify Pursuant to NRCP Rule 5(b) That on this
22. Day, ~~Wednesday~~ ^{Friday}, April 10, 2020 I mailed A True And Correct
23. Copy of The Foregoing Motion, for Sentence Modification of
24. AB236 That Applies to the movant retroactively.

25. Christopher J. Hicks # 7747
26. One S. Sierra str
27. Reno, NV 89501

28. Anthony Clark

29. V4. 512

LEGAL ARGUMENT

The rule is cardinal and universal that if a law is plainly unambiguous, there is no room for construction or interpretation, Brown v. Davis, 1 Nev. 409, 413 (1865). NRS 209.4465 subsection 1 provides in relevant part that:

An offender sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the department, the terms and conditions of his residential confinement, or the laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed "...for the period he is actually incarcerated pursuant to his sentence [...]... a deduction of twenty (20) days from his sentence each month he serves."

Subsection 2 of NRS 209.4465 further provides for an additional ten (10) days deduction by the NDOC Director for diligent work or study. However, the Nevada Department of Corrections has improperly interpreted and applied the controlling statute as set forth above herein.

The schema of the NDOC employed in the computation of the twenty (20) days per month, commonly referred to as statutory good time, is permissible in that unlike the related provision of NRS 209.4465, subsection 2, the Director does not have any discretion in regard to the deduction under subsection 1. Therefore, the prison officials are making their calculations in a manner that denies petitioner his statutory right to liberty without due process of law, which is a constitutional violation.

In the case at bar, the legislature itself created a statutory right in NRS 209.4465, which defined therein the correct manner/formula for computing good and work time deductions; thereby, the State of Nevada created a liberty interest, requiring due process to ensure that such liberty is not arbitrarily abrogated. Viter v. Jones, 100 S. Ct., 1254, 1261-62, Meachum v. Fano, 96 S. Ct., 2532, 2539-49. (1976)

Viter (1980)

CONCLUSION

Finally, the cardinal rule of statutory construction is for a court to give effect to the legislature's intent. *"What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will,"* and therefore, the court must apply the plain meaning of a statute where its language is unambiguous and conveys a clear meaning.

The court must reject a statute's interpretation (the NDOC Merits Credits System Formula) leading to absurd and disparate results not intended by the legislature, issue an ORDER that the Nevada Department of Corrections halt its *methodology* or whatever formula they are applying to extend petitioner's sentence, and to apply provisions of the Nevada Revised Statute 209.4465 so that its full force and effects benefit this petitioner.

DATE this 10¹⁵ day of April, 2020.

Respectfully submitted,

Anthony Clarke #1192204 #

Anthony Clarke

In Pro Se

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Sentence Modification NRS 176.555
(Title of Document)

Filed in District Court Case No. CR19-1352



Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-OR-

B. For the administration of a public program or

Anthony Clarke
(Signature)

4-15-20

(Date)

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-04-17 14:38:22.751.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-04-17 14:38:23.219.
LORENA VALENCIA, PD - Notification received on 2020-04-17 14:38:23.203.
CAROLYN TANNER, ESQ. - Notification received on 2020-04-17 14:38:22.985.
DIV. OF PAROLE & PROBATION - Notification received on 2020-04-17 14:38:22.782.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

04-17-2020:14:31:49

Clerk Accepted:

04-17-2020:14:37:28

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Motion
Mtn to Modify/Correct Sentence

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Case No. CR19-1352

Plaintiff,

Dept. No. 15

vs.

ANTHONY CLARKE,

Defendant.

ORDER STRIKING FUGITIVE DOCUMENTS

On April 17, 2020, Mr. Clarke filed a Motion for Leave and Motion to Correct an Illegal Sentence in the above-captioned case. This matter is currently on appeal and Mr. Clarke is represented by appellate counsel, Carolyn "Lina" Tanner, Esq. A defendant who is represented by counsel may not file pro se motions. United States v. Gallardo, 915 F. Supp. 216, 217-18 (D. Nev. 1995) *aff'd*, 92 F.3d 1194 (9th Cir. 1996). Accordingly, the motions for leave to file and motion to correct filed April 17, 2020, are stricken.

IT IS SO ORDERED.

Dated this 20 day of April, 2020.


District Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 21 day of April, 2020, I electronically filed the foregoing with the Second Judicial District Court's electronic filing system which will send a notice of electronic filing to the following:

JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA

DIV. OF PAROLE & PROBATION

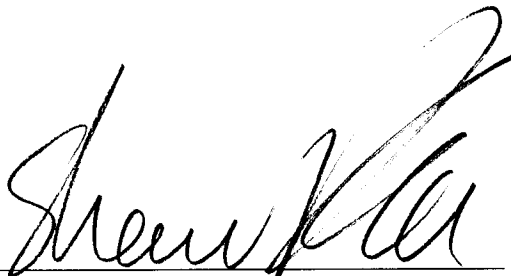
LORENA VALENCIA, PD for ANTHONY CLARKE

MARIAH NORTINGTON, ESQ. for STATE OF NEVADA

CAROLYN TANNER, ESQ. for ANTHONY CLARKE

Further, I certify that I deposited in the county mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing addressed to:

Anthony Clarke, #1192204
NNCC, P.O. Box 7000
Carson City, NV 89702


Judicial Assistant

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-04-21 16:36:19.972.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-04-21 16:36:20.83.
LORENA VALENCIA, PD - Notification received on 2020-04-21 16:36:20.798.
CAROLYN TANNER, ESQ. - Notification received on 2020-04-21 16:36:20.018.
DIV. OF PAROLE & PROBATION - Notification received on 2020-04-21 16:36:19.987.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

04-21-2020:16:35:02

Clerk Accepted:

04-21-2020:16:35:41

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Striking

Filed By:

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-06-12 11:20:54.638.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-06-12 11:20:55.106.
LORENA VALENCIA, PD - Notification received on 2020-06-12 11:20:55.082.
CAROLYN TANNER, ESQ. - Notification received on 2020-06-12 11:20:54.687.
DIV. OF PAROLE & PROBATION - Notification received on 2020-06-12 11:20:54.662.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-12-2020:11:15:26

Clerk Accepted:

06-12-2020:11:20:27

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Carolyn E. Tanner

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Anthony Clarke
(Name) 1192204

(I.D. No.)
Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Movant, In Proper Person

SECOND JUDICIAL DISTRICT COURT STATE
OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA

Plaintiff/Movant

vs.

Anthony Clarke
Defendant/Respondent

Case No.: CR 19-1352

Order providing Defendant with
copy of C.U.S.I.P. bond Attached to
Judgment of Conviction

COMES NOW, Anthony Clarke, in proper person and herein
above respectfully moves this Honorable Court for a(n) Order to provide Defendant
with a copy of the Committee Uniform Surety Identification Process
(C.U.S.I.P) bond attached to Defendant Clarke Judgment of Conviction.

The instant motion is made and based upon all papers and pleadings on file herein as well
as the following Memorandum of Points and Authorities and attached exhibits (where
applicable).

MEMORANDUM OF POINTS AND AUTHORITIES

United States Constitution First Amendment

United States Constitution Fourteenth Amendment

By: Anthony Clarke

CERTIFICATE OF SERVICE

I, Anthony Clarke certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid, and addressed to:

Clerk of Court
2nd Judicial District Court
75 Court St
Reno, NV ~~8972~~ 89501

AND

Christopher J. Hicks # 7747
1 South Sierra St
RENO, NV 89501

Dated this 11 day of 6, 20 20

By: Anthony Clarke
 Movant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any Persons.

6/11/20
 (Date)

Anthony Clarke
 (Signature)

INDEX OF EXHIBITS

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

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Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

Exhibit Cover Page

EXHIBIT NUMBER _____

1 Anthony Clarke 1192204
2 NNCC P.O. Box 7000
3 Carson City, NV 89702
4
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE
8 . . .

9 THE STATE OF NEVADA,

10 PLAINTIFF,

CASE No CR19-1352

11 v.

Dept No D15

12
13 Anthony Clarke,
14 Defendant.
15

16 ORDER

17 Upon reading the motion of Anthony Clarke requesting a copy
18 of the Committee Uniform Surety Identification Process
19 document attached to Defendant's Judgement of Conviction.
20 Which is being used to underwrite Defendant's time in prison
21 and time on parole.

22 It is hereby ordered that a copy of the (C.U.S.I.P.) bond attached
23 to defendant's Judgement of Conviction be delivered to
24 Defendant who is presently incarcerated at NNCC P.O. Box 7000
25 Carson City NV 89702.
26

27 Dated this _____ day of _____ 2020
28

District Court Judge

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-06-16 14:19:50.158.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-06-16 14:19:50.272.
LORENA VALENCIA, PD - Notification received on 2020-06-16 14:19:50.248.
CAROLYN TANNER, ESQ. - Notification received on 2020-06-16 14:19:50.207.
DIV. OF PAROLE & PROBATION - Notification received on 2020-06-16 14:19:50.183.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-16-2020:14:13:18

Clerk Accepted:

06-16-2020:14:19:26

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Motion

- **Continuation

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Anthony Clarke
 (Name)

1192204

(I.D. No.)

Northern Nevada Correctional Center
 Post Office Box 7000
 Carson City, NV 89702

Movant, In Proper Person

Second Judicial District Court
State of Nevada Washoe County

Anthony Clarke

Plaintiff/Movant

vs.

STATE OF Nevada

Defendant/Respondent

Case No.: CR 19 1352

Motion Pursuant To Rules of Practice
For The Second Judicial District Court
Rule 21 Sanctions for Noncompliance

COMES NOW, Anthony Clarke, in proper person and herein
 above respectfully moves this Honorable Court for a(n) Order of Sanctions for Noncompliance Pursuant to Rule 21 of Rules of Practice for the Second Judicial District Court against Kendra Bertschy, Esq

The instant motion is made and based upon all papers and pleadings on file herein as well as the following Memorandum of Points and Authorities and attached exhibits (where applicable).

MEMORANDUM OF POINTS AND AUTHORITIES

- ① Violation of the United States Constitution 6 and 14th Amend
- ② Rules of Professional Conduct, Business and Professional Code.
- ③ See attached State Bar of Nevada Grievance against Kendra Bertschy, Esq.

(See attached Grievance against Kendra Bertschy Reference No OBC20-0575).

In the Reno Justice Court on 8-1-19 Appointed Attorney Kendra Bertschy advised me that I was identified in a line up and the prosecution witnesses were present at the preliminary hearing. That said, I plead guilty to the charge of burglary. If I would had not been misled by counsel I would had not Plead guilty." I learn the fact of the matter "I was not Identified in a line up or is it any proof that the Prosecution witnesses were present at the preliminary hearing on 8-1-19. This is the violation.

Dated this 24²⁴/17 day of 6, 2020.

By: Anthony Clarke

CERTIFICATE OF SERVICE

I, Anthony Clarke certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid, and addressed to:

Christopher J. Hicks # 7747
1 South Sierra St
Reno NV 89501

AND

Second Judicial District Court
75 Court St
Reno, NV 89701

Dated this 17 day of 6, 2020.

By: Anthony Clarke
 Movant, (In Proper Person)

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any Persons.

6/17/20
 (Date)

Anthony Clarke
 (Signature)

STATE BAR OF NEVADA

June 9, 2020

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89701

Re: Grievance / Kendra Bertschy, Esq.
Reference No. OBC20-0575

Dear Mr. Clarke:

The Office of Bar Counsel has considered your grievance to the State Bar of Nevada regarding your court-appointed attorney, Kendra Bertschy, in connection with your criminal conviction.

A review of court records and the information provided indicates that your grievance involves issues which should be addressed in the appropriate judicial settings.

The Office of Bar Counsel and the disciplinary boards of the State Bar are not substitutes for the court system. Therefore, this grievance has been dismissed and no further action shall be taken in this matter. If a court makes written findings which clearly establish attorney misconduct, you may submit that information for our reconsideration.

Sincerely,

Phillip J. Pattee
Phillip J. Pattee (Jun 9, 2020 12:36 PM)

Phillip J. Pattee
Assistant Bar Counsel

PJP/bkm



3100 W. Charleston Blvd
Suite 100
Las Vegas, NV 89102
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

www.nvbar.org






2020.6.9 Dismissal Itr to G obc20-0575

Final Audit Report

2020-06-09

Created:	2020-06-09
By:	Breanna McCully (breannam@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIUa-3s6WmMaF16gX1RZSCaGOzLaFux7t

"2020.6.9 Dismissal Itr to G obc20-0575" History

-  Document created by Breanna McCully (breannam@nvbar.org)
2020-06-09 - 6:49:04 PM GMT- IP address: 70.189.173.239
-  Document emailed to Phillip J. Pattee (philp@nvbar.org) for signature
2020-06-09 - 6:49:17 PM GMT
-  Email viewed by Phillip J. Pattee (philp@nvbar.org)
2020-06-09 - 7:35:54 PM GMT- IP address: 70.173.20.127
-  Document e-signed by Phillip J. Pattee (philp@nvbar.org)
Signature Date: 2020-06-09 - 7:36:14 PM GMT - Time Source: server- IP address: 70.173.20.127
-  Signed document emailed to Breanna McCully (breannam@nvbar.org) and Phillip J. Pattee (philp@nvbar.org)
2020-06-09 - 7:36:14 PM GMT



Adobe Sign

Anthony Clarke
(Name)

1192204

(I.D. No.)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Movant, In Proper Person

Second Judicial District Court
State of Nevada Washoe County

Anthony Clarke

Plaintiff/Movant

vs.

STATE OF Nevada

Defendant/Respondent

Case No.: CR 19 1352

Motion Pursuant To Rules of Practice
For The Second Judicial District Court
Rule 21 Sanctions for Noncompliance

COMES NOW, Anthony Clarke, in proper person and herein
above respectfully moves this Honorable Court for a(n) Order of Sanctions for Noncompliance Pursuant to Rule 21 of Rules of Practice for the Second Judicial District Court against Kendra Bertschy, Esq

The instant motion is made and based upon all papers and pleadings on file herein as well as the following Memorandum of Points and Authorities and attached exhibits (where applicable).

MEMORANDUM OF POINTS AND AUTHORITIES

- ① Violation of the United States Constitution 6th and 14th Amend
- ② Rules of Professional Conduct, Business and Professional Code.
- ③ See attached State Bar of Nevada Grievance against Kendra Bertschy, Esq.

In the Reno Justice Court on 8-1-19 Appointed Attorney Kendra Bertschy advised me that I was identified in a line up and the prosecution witnesses were present at the preliminary hearing. That said, I plead guilty to the charge of burglary. If I would had not been mislead by counsel I would had not Plead guilty." I learn the fact of the matter "I was not Identified in a line up or is it any proof that the Prosecution witnesses were present at the preliminary hearing on 8-1-19. This is the violation.

Dated this ²²~~17~~ day of 6, 2020.

By: Anthony Clarke

STATE BAR OF NEVADA

June 9, 2020

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89701

Re: Grievance / Kendra Bertschy, Esq.
Reference No. OBC20-0575

Dear Mr. Clarke:

The Office of Bar Counsel has considered your grievance to the State Bar of Nevada regarding your court-appointed attorney, Kendra Bertschy, in connection with your criminal conviction.

A review of court records and the information provided indicates that your grievance involves issues which should be addressed in the appropriate judicial settings.

The Office of Bar Counsel and the disciplinary boards of the State Bar are not substitutes for the court system. Therefore, this grievance has been dismissed and no further action shall be taken in this matter. If a court makes written findings which clearly establish attorney misconduct, you may submit that information for our reconsideration.

Sincerely,

Phillip J. Pattee
Phillip J. Pattee (Jun 9, 2020 12:36 PDT)

Phillip J. Pattee
Assistant Bar Counsel

PJP/bkm



3100 W. Charleston Blvd
Suite 100
Las Vegas, NV 89102
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

www.nvbar.org


2020.6.9 Dismissal ltr to G obc20-0575

Final Audit Report


2020-06-09

Created:	2020-06-09
By:	Breanna McCully (breannam@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIUa-3s6WmMaF16gX1RZSCaGOzLaFux7t


"2020.6.9 Dismissal ltr to G obc20-0575" History

 Document created by Breanna McCully (breannam@nvbar.org)

2020-06-09 - 6:49:04 PM GMT- IP address: 70.189.173.239

 Document emailed to Phillip J. Pattee (philp@nvbar.org) for signature


2020-06-09 - 6:49:17 PM GMT

 Email viewed by Phillip J. Pattee (philp@nvbar.org)

2020-06-09 - 7:35:54 PM GMT- IP address: 70.173.20.127

 Document e-signed by Phillip J. Pattee (philp@nvbar.org)

Signature Date: 2020-06-09 - 7:36:14 PM GMT - Time Source: server- IP address: 70.173.20.127

 Signed document emailed to Breanna McCully (breannam@nvbar.org) and Phillip J. Pattee (philp@nvbar.org)

2020-06-09 - 7:36:14 PM GMT



Adobe Sign

Anthony Clarke 1192204
NWCC / P.O. Box 7000
Carson city, NV 89702

RECEIVED
JUN 29 2020
MAIL DESK

Jacqueline Bryant
Clerk of the court
Second Judicial District Court
TS court str
Reno, NV 89501

Master FIRST-CLASS MAIL
06/23/2020
\$001.40
ZIP 89701
01E12650741

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-06-29 09:46:51.656.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-06-29 09:46:51.771.
LORENA VALENCIA, PD - Notification received on 2020-06-29 09:46:51.747.
CAROLYN TANNER, ESQ. - Notification received on 2020-06-29 09:46:51.703.
DIV. OF PAROLE & PROBATION - Notification received on 2020-06-29 09:46:51.68.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-29-2020:09:42:49

Clerk Accepted:

06-29-2020:09:46:20

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Motion

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Case No. CR19-1352

Plaintiff,

Dept. No. 15

vs.

ANTHONY CLARKE,

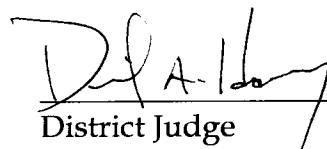
Defendant.

ORDER STRIKING FUGITIVE DOCUMENTS

On June 16, 2020 Mr. Clarke, in pro se, filed a Motion for Order to Provide Defendant With Copy of C.U.S.I.P Bond Attached to Judgment of Conviction and on June 29, 2020 he filed a Motion Pursuant to Rules of Practice for The Second Judicial District Court Rule 21 Sanctions for Noncompliance in the above-captioned case. This matter is currently on appeal and Mr. Clarke is represented by appellate counsel, Carolyn "Lina" Tanner, Esq. A defendant who is represented by counsel may not file pro se motions. United States v. Gallardo, 915 F. Supp. 216, 217-18 (D. Nev. 1995) *aff'd*, 92 F.3d 1194 (9th Cir. 1996). Accordingly, the Mr. Clarke's pro se motions are stricken.

IT IS SO ORDERED.

Dated this 30 day of June, 2020.


District Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 30 day of June, 2020, I electronically filed the foregoing with the Second Judicial District Court's electronic filing system which will send a notice of electronic filing to the following:

JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY CLARKE

MARIAH NORTINGTON, ESQ. for STATE OF NEVADA

CAROLYN TANNER, ESQ. for ANTHONY CLARKE

Further, I certify that I deposited in the county mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing addressed to:

Anthony Clarke, #1192204
NNCC, P.O. Box 7000
Carson City, NV 89702



Judicial Assistant

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-06-30 10:57:56.957.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-06-30 10:57:58.279.
LORENA VALENCIA, PD - Notification received on 2020-06-30 10:57:58.038.
CAROLYN TANNER, ESQ. - Notification received on 2020-06-30 10:57:57.995.
DIV. OF PAROLE & PROBATION - Notification received on 2020-06-30 10:57:57.568.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-30-2020:10:56:49

Clerk Accepted:

06-30-2020:10:57:23

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Striking

Filed By:

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

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JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-06-30 15:06:59.589.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-06-30 15:06:59.727.
LORENA VALENCIA, PD - Notification received on 2020-06-30 15:06:59.7.
CAROLYN TANNER, ESQ. - Notification received on 2020-06-30 15:06:59.641.
DIV. OF PAROLE & PROBATION - Notification received on 2020-06-30 15:06:59.614.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-30-2020:15:05:17

Clerk Accepted:

06-30-2020:15:06:23

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Granting Mtn

Filed By:

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Carolyn “Lina” Tanner, Esq.
Nevada Bar No. 5520
TANNER LAW & STRATEGY GROUP, LTD.
216 E. Liberty Street
Reno, Nevada 89501
Tel. 775.315.0520
E-mail: lina@tannerlnv.com

ANTHONY CLARKE,)	CASE NO. CR19-1352
Appellant,)	SUPREME COURT NO. 80130
vs.)	DEPT. NO. 15
STATE OF NEVADA,)	
Respondent.)	

COMES NOW, Appellant, ANTHONY CLARKE, by and through appointed counsel, CAROLYN “LINA” TANNER, Esq., and hereby requests that the Ex Parte Motion for Final Attorney’s Fees on file herein be submitted to the Court for decision.

The undersigned does hereby affirm that the preceding document does not contain the Social

///

Security Number of any person.

DATED this 22nd day of July, 2020.

By: /s/ Carolyn Tanner
CAROLYN "LINA" TANNER, ESQ.
Nevada Bar No. 5520
TANNER LAW & STRATEGY GROUP, LTD.
216 E. Liberty Street
Reno, Nevada 89501
Tel. 775.323.4657
E-mail: lina@tannerlnv.com

Attorney for ANTHONY CLARKE

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Tanner Law & Strategy Group, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

Krista Meier, Esq. (via e-flex and e-mail)
Washoe County Conflict Contract Administrator

DATED this 22nd day of July, 2020.

By: /s/ Carolyn Tanner
CAROLYN "LINA" TANNER, ESQ.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-07-22 14:26:10.109.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-07-22 14:26:10.284.
LORENA VALENCIA, PD - Notification received on 2020-07-22 14:26:10.243.
CAROLYN TANNER, ESQ. - Notification received on 2020-07-22 14:26:10.181.
DIV. OF PAROLE & PROBATION - Notification received on 2020-07-22 14:26:10.149.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-22-2020:14:24:14

Clerk Accepted:

07-22-2020:14:25:35

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Request for Submission

Filed By:

Carolyn E. Tanner

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-07-22 14:39:41.939.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-07-22 14:39:42.076.
LORENA VALENCIA, PD - Notification received on 2020-07-22 14:39:42.051.
CAROLYN TANNER, ESQ. - Notification received on 2020-07-22 14:39:42.0.
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PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-22-2020:14:23:34

Clerk Accepted:

07-22-2020:14:38:00

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

- **Continuation

Filed By:

Carolyn E. Tanner

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 **Code 3565**

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5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **THE STATE OF NEVADA,**

10 **Plaintiff(s),**

Case No. CR19-1352

11 **vs.**

Dept. No. 15

12 **ANTHONY CLARKE,**

13 **Defendant(s).**
14 _____/

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16
17 **PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION RELIEF)**
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1. FIRST JUDICIAL DISTRICT COURT
 2. CARSON COUNTY COURT HOUSE

3. Nev. est. 10-31-1869

4. Treaty of Guadalupe @ Hidalgo (1848)

5. ANTHONY CLARKE
 6. Plaintiff,

7. Plaintiff,

8. Plaintiff,

9. (v).

10. Warden Perry Russell,
 11. NNCC

12. NNCC

13. Defendant,

)
)
) Petition For Habeas

) CORPUS NRS 34.360

)
)
) case #: 20 EW 00022 vs

) Dept: I

14. COMES NOW THE Above mentioned Plaintiff
 15. Proceeding Pro se, The Plaintiff is currently
 16. serving a Sentence From Washoe County, but
 17. SINCE I am being restrained of my Life,
 18. Liberty, And Property, A Violation of The Con-
 19. stitution XIV Amth Minimum Procedural Due
 20. Process Clause, In lieu of The fact That
 21. The defendant, Warden of "said" facility
 22. Through Laws created by Three State Nevada
 23. Supreme Court Justices Milton Baat, Edgar
 24. Eather, and Charles Merrill, who performed
 25. a Quasi Legislative function, with out
 26. the enactment clause, The Nevada Supreme
 27. Court has previously ruled that this enactment
 28. clause is mandatory, and must be included in
 29. every law, created by the Legislature.

1. "Nothing can become Law if it does not contain
 2. such enactment Language upon its face,
 3. OR consequently the Law's have no force",
 4. Which was decided in Nevada Highway Patrolmen's
 5. Assoc. v. Nevada Department of Motor
 6. Vehicles, and Nevada Highway Patrol, 107 NV 547,
 7. 549, Citing 815 P.2d. 608 And STATE v. ROGERS
 8. 10 Nev. 250 WL 4032, 7 (1875) Nevada Revised
 9. Statutes have no force, The People of the State
 10. of Nevada Are Represented in Any initiative mea-
 11. sure Through The Senate and House, (see) Nevada
 12. Constitution Article IV § 23. NRS 0.025, When
 13. The Three Supreme Court Justices, ruled that
 14. The State Revision Commission be abolished on
 15. July 1st, 1963 And Their Authority transferred to
 16. The Director of The STATE Revision Commission
 17. Russell McDonald, acting concurrently as Legal -
 18. Counsel, used a Joint Concurrent Resolution(s)
 19. NO. #1 And NO. #2 to Repeal All of The statutes of
 20. Nevada and create The Nevada Revised statutes
 21. This was done by what was Boot Strapping the
 22. Joint Concurrent Resolution's, with Memorials and
 23. Congratulations dubbed with Senate No #2 which
 24. was used from its conception. The State Attorney
 25. General weighed in on the Subject in an Opinion,
 26. (1951 ABO 85); that such a process is not Lawful.
 27. Subject Matter Jurisdiction can never be
 28. waived or forfeited as it involves the Court's
 29. Power to hear a case (see) U.S. v. Cotton, 537 U.S. 625-

1. 630, 122 S.Ct. 1781 (2002), Action by a Court
 2. without subject matter jurisdiction is Ultra
 3. Vires And There fore Void (see) Rubergas A.G. v.
 4. Murton Oil Co. 526 US 574, 583, 119 S.Ct. 1563
 5. (1999). The Nevada Constitution remains the pre-
 6. eminent rule of authority in the State of Nev-
 7. ada, (see) NV Constitution Article 6 §2, Which
 8. States: No Justice Shall Perform any function
 9. other than that Pertaining to their own elected
 10. Judicial Office, (see) Comm. on Ethics, 125 NV.
 11. 292 infra Warren B. Hardy II, 212 P. 3d. 1098 (2008).
 12. The Legislature enacts the Laws, the executive
 13. branch enforces the Laws, and the Judiciary
 14. determines Justicable Controversies (see) North
 15. Lake Tahoe Fire v. Washoe County Commissioner's
 16. 310 P. 3d. 583 (NV 2013). Nevada's Constitution
 17. mirrors the Separation of Powers expressed
 18. in the United States Constitution, NV. Const. 3 §1
 19. No Person charged with The exercise of Powers
 20. properly belonging to another One of These -
 21. Departments, Shall exercise any function per-
 22. taining to either of the others, except in cases
 23. expressly directed or Permitted by the Constitution
 24. The Legislature is the only branch of Government
 25. with the Power to enact Laws or define a
 26. crime, (see) Sheriff Clark County v. Luskman, 101
 27. NV 149 (1985) (This includes Laws that operate
 28. There is irrefutable evidence and factual proof
 29. BY PRIOR Opinions, that when Laws fail they are
 (3).

1. UNlawful and unconstitutional (see) Ex parte Young
 2. 209 US § 123 @ 130, 84 S.Ct. 221 (1907) and thus the
 3. Courts of the State, this Jurisdiction, and
 4. Venue Lack any Authority or Jurisdiction, to
 5. Arrest, Prosecute And Incarcerate, Which may
 6. be raised at any time, (see) Steel Company
 7. (v) Citizen's for a better environment, 523 US § 89 (98)
 8. There are other variables involved as well
 9. lack of performance bonds, based on NRS 282.040
 10. meeting the Statutory requirements filed at The
 11. Carson County clerk's office pursuant to (NRS 4.030)
 12. The Nevada State Supreme Court was very clear
 13. about the importance of the County Clerk's issuing
 14. such bonds that are conditioned upon the faithful
 15. performance of such bonds that are conditioned
 16. upon the faithful performance of The Judge and
 17. Prosecutor's duties, i.e. their duties, It was in
 18. State ex rel Attorney General v. Loughton 19 Nev 202,
 19. 8 P. 344 (1985) Other Variables are the land
 20. which the Tribes have signed a 99 year lease
 21. which goes back to The Treaty of Guadalupe -
 22. Hidalgo (1848) That was never relinquished by
 23. the Indigenous Peoples of Miguel Mexico (see)
 24. U.S. v. Joseph (1876), 94 US § 614, 24 L. Ed 295
 25. That "said" Indian Lands were never released
 26. and still part of The Arizona Territory, Nevada was
 27. never annexed into the State, The Last Variable
 28. was That the XVIth Amdt was never ratified
 29. into Law in (1913) for taxes, since the United
 (4)

1. WAS set aside IN (1871) Session III, Ch. 62, Forty Second
 2. Congress, President Ulysses Sydney Grant, and
 3. WAS eventually registered as a non profit in
 4. Wilmington Delaware, file no # (29652)
 5. The Plaintiff is being restrained of his
 6. Life, Liberty and Pursuit of Happiness (see)
 7. Wolff v. McDonnell, 418 US 539, 556-558 (1974).
 8. Which guarantee(s) that no State shall 'deprive
 9. Any person of these liberties, the touch stone
 10. of Due Process is protected against an individual
 11. by Arbitrary action of Government (see) Morrisey
 12. v. Brewer, 408 US 571, 581 (1972) Which from the
 13. onslaught of the arrest, prosecution was all illegal
 14. WHEREAS The Defendant must release the
 15. Plaintiff from incarceration, The Plaintiff is
 16. not trained in the Letter of The Law, and there-
 17. fore this Pleading must be liberally construed
 18. (see) Balistreri v. Pacifica Police Dept., 901 F. 2d
 19. 696, 699 (9th Cir 1990). I Submit Thank you

Sincerely,

x Anthony Clarke

Anthony CLARKE prose
 NNCC - P/O Box # (7006)
 Carson City, NV (89702)

1. CERTIFICATE OF SERVICE BY Mail

2. I, ANTHONY CLARKE, Proceeding Pro Per NRS
 3. 12.015; Hereby certify Pursuant to FRCP
 4. And NRCF Rule 5(d) That ON THIS DAY 2
 5. of June, 2020, I mailed a true and correct
 6. Copy of enclosed Legal instrument, Motion
 7. For Illegal Sentence NRS 176.556 Through
 8. "said" Petition for Writ of Habeas Corpus NRS
 9. 34.360 to:

10.		
11.	<u>Clerk of Court</u>	District Attorney
12.	<u>FIRST JUDICIAL DISTRICT COURT</u>	885 E. Musser St
13.	<u>CARSON COUNTY COURTHOUSE</u>	Carson City NV
14.	<u>897 East Musser Street</u>	89701
15.	<u>Carson City, NV (89701)</u>	
16.		

17. VERIFICATION

18. The Plaintiff Knows The Contents of "said"
 19. Pleading is True of The undersigned's own
 20. information And Belief NRS 53.045.

21. AFFIRMATION

22. The Undersigned does hereby Affirm pur-
 23. suant to NRS 239B030 for "said" Petition
 24. for Writ of Habeas Corpus NRS 34.360, This
 25. Legal Instrument does not contain Any
 26. Social Security Number of Anyone

1 **Code 2520**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **THE STATE OF NEVADA,**

10 **Plaintiff(s),**

Case No. CR19-1352

11 **vs.**

Dept. No. 15

12 **ANTHONY CLARKE,**

13 **Defendant(s).**
14 _____/

15
16
17 **PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION RELIEF)**
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REC'D & FILED

JUN 30 2020

Date

AUBREY ROWLATT
CLERKBy  Deputy

AARON D. FORD
Attorney General
HEATHER D. PROCTER (Bar No. 8621)
Chief Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
Phone: (775) 684-1271
Fax: (775) 684-1108
HProcter@ag.nv.gov
Attorneys for Respondent

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE CARSON CITY

ANTHONY CLARKE,

Petitioner,

vs.

WARDEN PERRY RUSSELL, NNCC,

Respondents.

Case No. 20 EW 00022 1B

Dept. No. 1

PERRY RUSSELL'S NOTICE OF APPEARANCE

The State of Nevada, by and through counsel, AARON D. FORD, Attorney General of the State of Nevada, hereby notifies the Court and respective parties to this action that Chief Deputy Attorney General HEATHER D. PROCTER has assumed responsibility for representing the interests of the named respondent, the Attorney General of the State of Nevada, and the interests of the State of Nevada in the above-entitled action.

Attorney General Aaron D. Ford should be removed from notices on this case and all future pleadings and notices should be directed to the undersigned counsel.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned hereby affirms that the preceding document does not contain the social security number of any person.

RESPECTFULLY SUBMITTED this 30th day of June, 2020.

AARON D. FORD
Attorney General

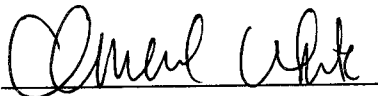
By: 

HEATHER D. PROCTER (Bar. No. 8621)
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 30th day of June, 2020, I caused to be deposited for mailing a true and correct copy of the foregoing, **PERRY RUSSELL'S NOTICE OF APPEARANCE** to the following:

Anthony Clarke #1192204
Northern Nevada Correctional Center
P O Box 7000
Carson City, Nevada 89702


Amanda White

1 **Code 3320**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **THE STATE OF NEVADA,**

10 **Plaintiff(s),**

Case No. CR19-1352

11 **vs.**

Dept. No. 15

12 **ANTHONY CLARKE,**

13 **Defendant(s).**
14 _____/

15
16 **ORDER TO FILE RESPONSE FROM PRIOR COURT**
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Case No.: 20 EW 00022 1B

Dept. No.: 1

REC'D & FILED ✓

2020 JUN -9 PM 1:43

AUBREY ROULETT

CLERK

BY

DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

ANTHONY CLARKE,

Petitioner,

vs.

WARDEN PERRY RUSSELL,
NNCC,

Respondent.

**ORDER FOR THE OFFICE OF THE
NEVADA ATTORNEY GENERAL TO
RESPOND**

This matter comes before this Court pursuant to a Petition for Habeas Corpus NRS 34.360 filed by Petitioner on June 8, 2020. This Court, in reviewing the filings, has concluded that a response would assist this Court.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that the Office of the Nevada Attorney General shall, within forty-five (45) days after the date of this order, answer or otherwise respond to the petition and file a response in accordance with the provisions of NRS 34.360 to 34.830, inclusive. The Carson City District Court Clerk's Office shall provide a copy of all filings to the Office of the Nevada Attorney General.

Dated this 9th day of June, 2020.


JAMES T. RUSSELL
DISTRICT JUDGE

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b,) I hereby certify that I am an employee of the First Judicial District Court in and for Carson City, Department I, and that on the 9 day of June, 2020, I placed a copy of the foregoing in the United States Mail, postage prepaid, addressed as follows:

Office of the Nevada Attorney General
100 N. Carson Street
Carson City, NV 89701

Anthony Clarke, #1192204
Northern Nevada Correctional Center,
PO BOX 7000
Carson City, NV 89702



Chloe McClintick, Esq.
Law Clerk, Dept. 1

1 **Code 2225**

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4
5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF WASHOE**
7

8 **THE STATE OF NEVADA,**

9 **Plaintiff(s),**

Case No. CR19-1352

10 **vs.**

Dept. No. 15

11 **ANTHONY CLARKE,**

12 **Defendant(s).**

13 **/**

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15
16 **MOTION FOR TRANSFER FROM PRIOR COURT**
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1 AARON D. FORD
 Attorney General
 2 HEATHER D. PROCTER (Bar No. 8621)
 Chief Deputy Attorney General
 3 State of Nevada
 Office of the Attorney General
 4 100 North Carson Street
 Carson City, Nevada 89701-4717
 5 Phone: (775) 684-1271
 Fax: (775) 684-1108
 6 HProcter@ag.nv.gov
 Attorneys for Respondent

REC'D & FILED

JUN 30 2020

Date

AUBREY ROWLATT
CLERKBy  Deputy

8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
 9 **IN AND FOR THE CARSON CITY**

10 ANTHONY CLARKE,

11 Petitioner,

12 vs.

13 WARDEN PERRY RUSSELL, NNCC,

14 Respondents.

Case No. 20 EW 00022 1B

Dept. No. 1

15 **MOTION TO TRANSFER PETITION FOR WRIT OF HABEAS CORPUS**

16 Respondent Warden Perry Russell, NNCC (Warden Russell) opposes Petitioner Anthony
 17 Clarke's (Clarke) "Petition for Habeas Corpus NRS 34.360" (petition) filed on June 8, 2020, and
 18 requests this Court transfer the petition to the Second Judicial District Court, as Clarke challenges his
 19 conviction and sentence rather than the calculation of his time credits. Consequently, this Court does
 20 not have jurisdiction to entertain the petition. This motion is based on the following points and
 21 authorities, the attached exhibits, and all papers and pleadings on file.

22 **CERTIFICATION OF COUNSEL**

23 Counsel did not confer with Clarke prior to filing the foregoing motion to transfer on behalf of
 24 Warden Russell. Due to ongoing issues with COVID-19, including teleworking of staff of the Attorney
 25 General's Office and the desire to prevent the spread of COVID-19, as well as staff issues with various
 26 Nevada state departments, counsel did not reach out to Clarke, who is incarcerated in the Northern
 27 Nevada Correctional Center (NNCC). FJDCR 3.7. However, as Clarke filed his petition in the wrong

28 ///

venue, this Court cannot grant him any relief, and no further discussion between the parties will alleviate the venue issue.

POINTS AND AUTHORITIES

I. INTRODUCTION AND ISSUE STATEMENT

Clarke presents a state habeas petition challenging his conviction and sentence. Petition at 4-5. He challenges the ability of the State to arrest and prosecute him, and ultimately seeks his release from incarceration. *Id.* Because Clarke challenges his conviction and sentence, rather than the calculation of his time credits, this matter must be transferred to the court of conviction, the Second Judicial District Court. NRS 34.738.

Warden Russell's motion to transfer petition presents the following issue: Whether this Court should transfer Clarke's petition because he challenges his conviction and sentence rather than the calculation of his time credits.

II. FACTS AND ARGUMENT

Clarke is currently incarcerated at NNCC. Petition at 5. He is incarcerated pursuant to a judgment of conviction by the Second Judicial District Court in Case No. CR19-1352. Exhibit 1. On November 25, 2019, the court adjudged Clarke guilty of burglary, and sentenced him to 28-96 months. *Id.*

NRS 34.738(1) requires a petition that challenges the validity of a conviction or sentence to be filed in the county of conviction. NRS 34.738 provides:

1. A petition that challenges the validity of a conviction or sentence must be filed with the clerk of the district court for the county in which the conviction occurred. Any other petition must be filed with the clerk of the district court for the county in which the petitioner is incarcerated.

2. A petition that is not filed in the district court for the appropriate county:

(a) Shall be deemed to be filed on the date it is received by the clerk of the district court in which the petition is initially lodged; and

(b) Must be transferred by the clerk of that court to the clerk of the district court for the appropriate county.

3. A petition must not challenge both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has served pursuant to that judgment. If a petition improperly challenges both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has served pursuant to that judgment, the district court for the appropriate county shall resolve that portion of the

petition that challenges the validity of the judgment of conviction or sentence and dismiss the remainder of the petition without prejudice.

(Emphasis added.) *See also Griffin v. State*, 122 Nev. 737, 741, 137 P.3d 1165, 1167 (2006) (“Under NRS 34.730(3), a petition that challenges the validity of the judgment of conviction or sentence must also be filed with the record of the original proceeding to which it relates and be assigned to the original judge or court, whenever possible.”).

Clarke challenges the legality of his arrest and prosecution. Petition at 4-5. While he alleges he is improperly incarcerated, *id.* at 4, he does not challenge the Nevada Department of Corrections’ calculation of his time credits. Rather, his challenge to incarceration arises from an underlying challenge to his conviction and sentence.

Therefore, pursuant to NRS 34.738, his petition must be filed in the county of conviction, namely in Washoe County and the Second Judicial District Court. Pursuant to NRS 34.738(2)(b), Warden Russell requests this Court order the Clerk of this court to transfer Clarke’s petition to the Clerk of the District Court of the Second Judicial District.

CONCLUSION

This Court should transfer Clarke’s petition to the county of conviction for disposition.

RESPECTFULLY SUBMITTED this 30th day of June, 2020.

AARON D. FORD
Attorney General

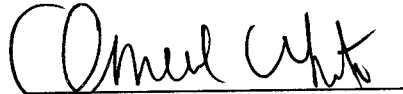
By: 

HEATHER D. PROCTER (Bar. No. 8621)
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 30th day of June, 2020, I caused to be deposited for mailing a true and correct copy of the foregoing, **MOTION TO TRANSFER PETITION FOR WRIT OF HABEAS CORPUS** to the following:

Anthony Clarke #1192204
Northern Nevada Correctional Center
P O Box 7000
Carson City, Nevada 89702


Amanda White

INDEX OF EXHIBITS

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Judgment of Conviction	2
2.	(Proposed) Order to Transfer Petition for Writ of Habeas Corpus	3

EXHIBIT 1

EXHIBIT 1

1 **CODE 1850**

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7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**
9

10 **STATE OF NEVADA,**

11 **Plaintiff,**

Case No. CR19-1352

12 **vs.**

Dept. No. 15

13 **ANTHONY CLARKE,**

14 **Defendant.**
15 _____/

16 **JUDGMENT OF CONVICTION**

17 The Defendant having entered a plea of guilty and no legal cause being shown as to why
18 judgment should not be pronounced against him, the Court rendered judgment as follows:

19 1. That Anthony Clarke is guilty of the crime of BURGLARY, a violation of NRS
20 205.060, a category B felony, as charged in the Information, and that he be punished by
21 imprisonment in the Nevada Department of Corrections for a minimum term 28 of months to a
22 maximum term of 96 months, with 136 days credit for time served.

23 2. It is further ordered that the Defendant shall pay the statutory \$25.00 administrative
24 assessment fee, \$3.00 as an administrative assessment for obtaining a biological specimen and
25 conducting a genetic marker analysis, and reimburse the County of Washoe the sum \$500.00 for
26 legal representation.

27 ///

28 ///

D. A. H.
DISTRICT JUDGE

EXHIBIT 2

EXHIBIT 2

1 **Code 3860**

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5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF WASHOE**

7
8 **THE STATE OF NEVADA,**

9 **Plaintiff(s),**

Case No. CR19-1352

10 **vs.**

Dept. No. 15

11 **ANTHONY CLARKE,**

12 **Defendant(s).**

13 _____ /
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15
16 **REQUEST FOR SUBMISSION OF**
17 **MOTION FOR TRANSFER FROM PRIOR COURT**
18
19
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REC'D & FILED
JUL 20 2020

Date

AUBREY ROWLATT
CLERKBy  Deputy

AARON D. FORD
Attorney General
HEATHER D. PROCTER (Bar No. 8621)
Chief Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
Phone: (775) 684-1271
Fax: (775) 684-1108
HProcter@ag.nv.gov
Attorneys for Respondent

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE CARSON CITY

ANTHONY CLARKE,

Petitioner,

vs.

WARDEN PERRY RUSSELL, NNCC,

Respondents.

Case No. 20 EW 00022 1B

Dept. No. 1

PERRY RUSSELL'S REQUEST FOR SUBMISSION

Respondent, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, respectfully requests that the above-referenced matter be submitted to the Court for decision upon Respondent's motion to transfer petition for writ of habeas corpus. This request is based upon the provisions of Rule 13(4) of the Rules of Practice of the District Courts of the State of Nevada. Accordingly, the instant matter may be submitted upon the pleadings and other documents on file in this matter.

RESPECTFULLY SUBMITTED this 20th day of July, 2020.

AARON D. FORD
Attorney General

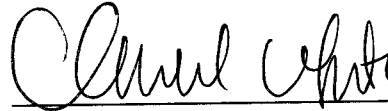
By: 

HEATHER D. PROCTER (Bar. No. 8621)
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 20th day of July, 2020, I caused to be deposited for mailing a true and correct copy of the foregoing, **PERRY RUSSELL'S REQUEST FOR SUBMISSION** to the following:

Anthony Clarke #1192204
Northern Nevada Correctional Center
P O Box 7000
Carson City, Nevada 89702



Amanda White

1 **Code 3060**

2

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5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

6 **IN AND FOR THE COUNTY OF WASHOE**

7

8 **THE STATE OF NEVADA,**

9 **Plaintiff(s),**

Case No. CR19-1352

10 **vs.**

Dept. No. 15

11 **ANTHONY CLARKE,**

12 **Defendant(s).**

13 **/**

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16 **ORDER GRANTING MOTION FOR TRANSFER**

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE CARSON CITY

ANTHONY CLARKE,

Petitioner,

vs.

WARDEN PERRY RUSSELL, NNCC,

Respondents.

Case No. 20 EW 00022 1B

Dept. No. 1

ORDER TRANSFERRING PETITION FOR WRIT OF HABEAS CORPUS

THIS MATTER comes before the Court on Respondent Warden Perry Russell's (Warden Russell) motion to transfer Petitioner Anthony Clarke's (Clarke) petition for writ of habeas corpus to the Second Judicial District Court. Having reviewed all pleadings, motions, documents, and exhibits on file, the Court makes the following findings of fact, conclusions of law, and order.

Clarke is currently incarcerated at Northern Nevada Correctional Center. He is incarcerated pursuant to a judgment of conviction by the Second Judicial District Court in Case No. CR19-1352. On November 25, 2019, the court adjudged Clarke guilty of burglary, and sentenced him to 28-96 months.

NRS 34.738(1) requires a petition that challenges the validity of a conviction or sentence to be filed in the county of conviction. NRS 34.738 provides:

1. A petition that challenges the validity of a conviction or sentence must be filed with the clerk of the district court for the county in which the conviction occurred. Any other petition must be filed with the clerk of the district court for the county in which the petitioner is incarcerated.

2. A petition that is not filed in the district court for the appropriate county:

(a) Shall be deemed to be filed on the date it is received by the clerk of the district court in which the petition is initially lodged; and

(b) Must be transferred by the clerk of that court to the clerk of the district court for the appropriate county.

3. A petition must not challenge both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has

served pursuant to that judgment. If a petition improperly challenges both the validity of a judgment of conviction or sentence and the computation of time that the petitioner has served pursuant to that judgment, the district court for the appropriate county shall resolve that portion of the petition that challenges the validity of the judgment of conviction or sentence and dismiss the remainder of the petition without prejudice.

(Emphasis added.) *See also Griffin v. State*, 122 Nev. 737, 741, 137 P.3d 1165, 1167 (2006) (“Under NRS 34.730(3), a petition that challenges the validity of the judgment of conviction or sentence must also be filed with the record of the original proceeding to which it relates and be assigned to the original judge or court, whenever possible.”).

Clarke challenges the legality of his arrest and prosecution. While he alleges he is improperly incarcerated, he does not challenge the Nevada Department of Corrections’ calculation of his time credits. Rather, the challenge to his incarceration arises from an underlying challenge to his conviction and sentence.

This Court finds that pursuant to NRS 34.738(2)(b), Clarke’s petition must be transferred to the county of conviction, namely in Washoe County and the Second Judicial District Court.

The Court deeming itself fully informed,

IT IS HEREBY ORDERED that the State’s motion to transfer is **GRANTED** and Clarke’s petition for writ of habeas corpus is hereby transferred to Washoe County and the Second Judicial District Court.

ORDERED this ____ day of _____, 2020.

DISTRICT JUDGE

Submitted by:

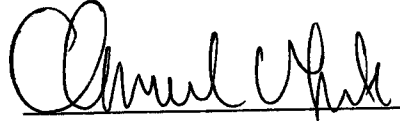
Dated this 30th of June, 2020.

Heather D. Procter
Chief Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
(775) 684-1271 (phone)
(775) 684-1108 (fax)
hprocter@ag.nv.gov

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 30th day of June, 2020, I caused to be deposited for mailing a true and correct copy of the foregoing, **(PROPOSED) ORDER TRANSFERRING PETITION FOR WRIT OF HABEAS CORPUS** to the following:

Anthony Clarke #1192204
Northern Nevada Correctional Center
P O Box 7000
Carson City, Nevada 89702


Amanda White

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-07-24 08:11:07.034.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-07-24 08:11:07.171.
LORENA VALENCIA, PD - Notification received on 2020-07-24 08:11:07.141.
CAROLYN TANNER, ESQ. - Notification received on 2020-07-24 08:11:07.09.
DIV. OF PAROLE & PROBATION - Notification received on 2020-07-24 08:11:07.061.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-23-2020:16:55:33

Clerk Accepted:

07-24-2020:08:10:35

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Pet Writ Habeas Corpus
Notice of Appearance
Ord to File
Mtn for Transfer
Request for Submission
Ord Granting
Deputy Clerk BBlough

Filed By:

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA
LORENA VALENCIA, PD for ANTHONY
CLARKE
CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

CODE 2520

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,
Appellant,

vs.

Case No. CR19-1352

THE STATE OF NEVADA,

Dept. No. 15

Respondent.

Supreme No. 80130

-----/

NOTICE OF APPEARANCE OF COUNSEL

(Direct Appeal)

On January 3, 2020, the Nevada Supreme Court remanded the above-entitled appeal for the limited purpose of appointing new counsel for Appellant. Respondent was represented by court-appointed attorneys in this case and he remains in custody. Thus, Mr. Clarke is presumed indigent in accordance with Supreme Court ADKT 411. Carolyn "Lina" Tanner was appointed to represent Mr. Clarke, but now must withdraw from representation due to a change in her employment status.

IT IS HEREBY RECOMMENDED that Tracie K. Lindeman, Esq. be appointed to represent Appellant in this direct appeal after a plea of guilty;

IT IS FURTHER RECOMMENDED that Counsel shall receive her fees and costs for time reasonably spent on this matter as mandated by NRS 7.115 through NRS 7.165; and said

attorney's fees will be paid as approved by the Administrator. Ms. Lindeman has been provided the case file by prior counsel.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned hereby affirms that the preceding document does not contain the social security number of any person.

DATED this 26th day of July, 2020.

/s/ Krista Meier, Esq.
KRISTA MEIER, ESQ.
Appointed Counsel Administrator

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the 26th day of July, 2020, I caused service to be completed by:

☐ Personal Delivery

☐ Delivery by professional courier

☐ Sending via federal express or other overnight delivery service

☐ Depositing for mail in the U.S. Mail with sufficient postage

☐ Via fax to:

☒ Electronically, in compliance with the Second Judicial District Court's electronic filing system (E-flex), of which the recipient is a registered user a true and correct copy of the above document addressed to: Tracie K. Lindeman, Esq.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-07-27 08:33:44.283.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-07-27 08:33:44.398.
LORENA VALENCIA, PD - Notification received on 2020-07-27 08:33:44.374.
CAROLYN TANNER, ESQ. - Notification received on 2020-07-27 08:33:44.333.
DIV. OF PAROLE & PROBATION - Notification received on 2020-07-27 08:33:44.308.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-26-2020:11:02:00

Clerk Accepted:

07-27-2020:08:33:16

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Other ...

Filed By:

Krista Meier, Esq.

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

CAROLYN TANNER, ESQ. for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-07-27 08:42:25.807.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-07-27 08:42:25.899.
LORENA VALENCIA, PD - Notification received on 2020-07-27 08:42:25.858.
DIV. OF PAROLE & PROBATION - Notification received on 2020-07-27 08:42:25.833.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-26-2020:11:04:29

Clerk Accepted:

07-27-2020:08:41:56

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Notice of Appearance

Filed By:

Krista Meier, Esq.

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

LORENA VALENCIA, PD for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80130

FILED

SEP 01 2020

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

*ORDER REGARDING MOTION, REGARDING COUNSEL, AND
SUSPENDING BRIEFING*

On August 15, 2020, attorney Tracie Lindeman filed a motion for an extension of time to file the opening brief and appendix. Ms. Lindeman states that she will be replacing appointed counsel Carolyn Tanner on behalf of appellant. In addition, Ms. Lindeman has filed a document indicating that she has been recommended as appointed counsel, but an order has not yet been entered. Given these circumstances, the deadlines for filing documents are suspended until further order of this court. The district court shall have 28 days from the date of this order to enter an order appointing counsel for appellant. Within 7 days from the date of appointment, the district court clerk shall transmit to the clerk of this court a copy of the district court's written or minute order appointing appellate counsel.

It is so ORDERED.

Pickering, C.J.

cc: Hon. David A. Hardy, District Judge
Tanner Law & Strategy Group, Ltd.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-02 13:44:28.058.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-02 13:44:28.181.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-02 13:44:28.113.
LORENA VALENCIA, PD - Notification received on 2020-09-02 13:44:28.157.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-02 13:44:28.086.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-02-2020:13:43:21

Clerk Accepted:

09-02-2020:13:43:57

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Supreme Court Order

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

LORENA VALENCIA, PD for ANTHONY
CLARKE

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Code: 1670

Tracie K. Lindeman, Esq.
Nevada Bar No. 5049
P.O. Box 3733
Carson City, Nevada 89702
Tel. 775.297.4877
E-mail: tlindeman@appellatesolution.com

**IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

ANTHONY CLARKE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. CR19-1352

SUPREME COURT NO. 80130

**REQUEST FOR SUBMISSION OF
EX PARTE MOTION FOR PAYMENT OF ATTORNEY'S FEES**

COMES NOW, Appellant, ANTHONY CLARKE, by and through appointed counsel, TRACIE K. LINDEMAN, Esq., and requests that the Ex Parte Motion for Payment of Attorney's Fees on file herein be submitted to the Court for decision.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

///

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///

Respectfully submitted this 6th day of September, 2020.

/s/ Tracie K. Lindeman

Tracie K. Lindeman, Esq.

Nevada Bar No. 5049

P.O. Box 3733

(775) 297-4877

tlindeman@appellatesolution.com

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this date I forwarded a true copy of the foregoing document
addressed to:

Krista Meier, Esq. (via eflex and e-mail)
Washoe County Conflict Contract Administrator

DATED this 6th day of September, 2020.

/s/ Tracie K. Lindeman
Tracie K. Lindeman, Esq.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-06 12:11:30.24.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-06 12:11:30.361.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-06 12:11:30.293.
LORENA VALENCIA, PD - Notification received on 2020-09-06 12:11:30.336.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-06 12:11:30.265.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-06-2020:12:09:03

Clerk Accepted:

09-06-2020:12:10:59

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Request for Submission

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

LORENA VALENCIA, PD for ANTHONY
CLARKE

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-08 08:01:30.645.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-08 08:01:30.766.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-08 08:01:30.696.
LORENA VALENCIA, PD - Notification received on 2020-09-08 08:01:30.739.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-08 08:01:30.67.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-06-2020:12:07:41

Clerk Accepted:

09-08-2020:08:01:02

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

LORENA VALENCIA, PD for ANTHONY
CLARKE

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

CODE 2715

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Appellant,

vs.

Case No. CR19-1352

THE STATE OF NEVADA,

Dept. No. 15

Respondent.

Supreme Ct No: 80130

-----/

RECOMMENDATION AND ORDER APPOINTING SUBSTITUTE COUNSEL
(Appeal)

Appellant, ANTHONY CLARKE, having been granted Forma Pauperis Status and having been represented by the Public Defender's office in his underlying criminal matter, and upon the matter being referred back to the Appointed Counsel Administrator in the Supreme Court's Order dated September 2, 2020, the Appointed Counsel Administrator makes the following recommendations:

IT IS HEREBY RECOMMENDED that Tracie K. Lindeman, Esq., be appointed to represent Appellant and replace prior counsel assigned to this matter.

IT IS FURTHER RECOMMENDED that newly appointed counsel shall be placed as attorney of record in Case Number CR19-1352.

///

Affirmation Pursuant to NRS 239B.030

The undersigned hereby affirms that the preceding document does not contain the social security number of any person.

DATED this 7th day of September, 2020.

_____/s/Krista Meier_____
KRISTA MEIER, ESQ.; ACA

ORDER APPOINTING SUBSTITUTE COUNSEL FOR APPEAL

Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of justice, IT IS HEREBY ORDERED that the recommendations of the Administrator are confirmed, approved and adopted. As such, Tracie Lindeman shall be appointed to represent Appellant for his appeal, to be paid by Washoe County.

DATED this 8th day of September, 2020.



DISTRICT COURT JUDGE

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-08 10:45:39.74.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-08 10:45:39.882.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-08 10:45:39.799.
LORENA VALENCIA, PD - Notification received on 2020-09-08 10:45:39.853.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-08 10:45:39.77.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-08-2020:10:44:39

Clerk Accepted:

09-08-2020:10:45:09

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Appointing Counsel

Filed By:

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Appellant,

Vs,

THE STATE OF NEVADA,

Respondent.

Case No. CR19-1352

Dept. No. 15

SCN: 80130

CERTIFICATE OF CLERK AND TRANSMITTAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe. On the 8th day of September, 2020, I electronically filed to the Supreme Court the Recommendation and Order Appointing Substitute Counsel (Appeal) filed September 8th, 2020. The Order is transmitted pursuant to the Supreme Court's Order Regarding Motion, Regarding Counsel, and Suspending Briefing filed September 1st, 2020.

I further certify that the transmitted record is a copy of the original pleadings on file with the Second Judicial District Court.

Dated this 8th day of September, 2020.

Jacqueline Bryant
Clerk of the Court

By /s/YViloria
YViloria
Deputy Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-08 13:55:01.908.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-08 13:55:02.033.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-08 13:55:01.957.
LORENA VALENCIA, PD - Notification received on 2020-09-08 13:55:02.009.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-08 13:55:01.933.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-08-2020:13:53:54

Clerk Accepted:

09-08-2020:13:54:31

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-09-16 08:37:01.872.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-09-16 08:37:01.992.
TRACIE LINDEMAN, ESQ - Notification received on 2020-09-16 08:37:01.924.
LORENA VALENCIA, PD - Notification received on 2020-09-16 08:37:01.967.
DIV. OF PAROLE & PROBATION - Notification received on 2020-09-16 08:37:01.899.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

09-15-2020:19:16:17

Clerk Accepted:

09-16-2020:08:36:29

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Notice

Filed By:

Krista Meier, Esq.

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Code: 1670

Tracie K. Lindeman, Esq.
Nevada Bar No. 5049
P.O. Box 3733
Carson City, Nevada 89702
Tel. 775.297.4877
E-mail: tlindeman@appellatesolution.com

IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. CR19-1352

SUPREME COURT NO. 80130

REQUEST FOR SUBMISSION OF
EX PARTE MOTION FOR PAYMENT OF ATTORNEY'S FEES

COMES NOW, Appellant, ANTHONY CLARKE, by and through appointed counsel, TRACIE K. LINDEMAN, Esq., and requests that the Ex Parte Motion for Payment of Attorney's Fees on file herein be submitted to the Court for decision.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

///

///

///

///

Respectfully submitted this 18th day of November, 2020.

/s/ Tracie K. Lindeman

Tracie K. Lindeman, Esq.

Nevada Bar No. 5049

P.O. Box 3733

(775) 297-4877

tlindeman@appellatesolution.com

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this date I forwarded a true copy of the foregoing document
addressed to:

Krista Meier, Esq. (via eflex and e-mail)
Washoe County Conflict Contract Administrator

DATED this 18th day of November, 2020.

/s/ Tracie K. Lindeman
Tracie K. Lindeman, Esq.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-11-18 10:39:54.868.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-11-18 10:39:54.975.
TRACIE LINDEMAN, ESQ - Notification received on 2020-11-18 10:39:54.913.
LORENA VALENCIA, PD - Notification received on 2020-11-18 10:39:54.952.
DIV. OF PAROLE & PROBATION - Notification received on 2020-11-18 10:39:54.89.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

11-18-2020:10:36:52

Clerk Accepted:

11-18-2020:10:39:26

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Request for Submission

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-11-18 10:47:57.85.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-11-18 10:47:57.971.
TRACIE LINDEMAN, ESQ - Notification received on 2020-11-18 10:47:57.894.
LORENA VALENCIA, PD - Notification received on 2020-11-18 10:47:57.949.
DIV. OF PAROLE & PROBATION - Notification received on 2020-11-18 10:47:57.873.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

11-18-2020:10:35:46

Clerk Accepted:

11-18-2020:10:47:27

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

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LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-11-30 08:30:35.345.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-11-30 08:30:35.522.
TRACIE LINDEMAN, ESQ - Notification received on 2020-11-30 08:30:35.393.
LORENA VALENCIA, PD - Notification received on 2020-11-30 08:30:35.498.
DIV. OF PAROLE & PROBATION - Notification received on 2020-11-30 08:30:35.369.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

11-27-2020:17:09:14

Clerk Accepted:

11-30-2020:08:29:54

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Notice

Filed By:

Krista Meier, Esq.

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80130

FILED

NOV 30 2020

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

*ORDER GRANTING MOTION TO TRANSMIT PRESENTENCE
INVESTIGATION REPORT*

The motion to direct the district court clerk to transmit a copy of the presentence investigation report in this matter (district court case number CR19-1352) is granted. NRAP 30(b)(6). The district court clerk shall have 14 days from the date of this order to transmit to the clerk of this court a copy of the presentence investigation report in a sealed envelope. *See id.*; NRS 176.156(5) (providing that except for specific disclosures authorized by NRS 176.156(1)-(4), a presentence investigation report is "confidential and must not be made a part of any public record").

It is so ORDERED.

Pickering, C.J.

cc: Tracie Lindeman
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-12-02 14:24:08.061.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-12-02 14:24:09.814.
TRACIE LINDEMAN, ESQ - Notification received on 2020-12-02 14:24:08.842.
LORENA VALENCIA, PD - Notification received on 2020-12-02 14:24:09.321.
DIV. OF PAROLE & PROBATION - Notification received on 2020-12-02 14:24:08.817.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

12-02-2020:14:22:03

Clerk Accepted:

12-02-2020:14:23:15

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Supreme Ct Order Granting ...

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

ANTHONY CLARKE,

Defendant.

Case No. CR19-1352

Dept. No. 15

SCN: 80130

CERTIFICATE OF CLERK AND TRANSMITTAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe. On the 3rd day of December, 2020, I deposited in the Washoe County mailing system for postage and mailing in the United States Postal Service in Reno, Nevada, a copy of the presentence investigation report addressed to the Nevada Supreme Court, 201 S. Carson Street, Suite 201, Carson City, Nevada 89701. The Order is transmitted pursuant to the Supreme Court's Order Granting Motion to Transmit Presentence Investigation Report filed November 30, 2020.

I further certify that the transmitted record is a copy of the original pleadings on file with the Second Judicial District Court.

Dated this 3rd day of December, 2020.

Jacqueline Bryant
Clerk of the Court

By /s/YViloria
YViloria
Deputy Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2020-12-03 09:10:25.709.
MARIAH NORTHINGTON, ESQ. - Notification received on 2020-12-03 09:10:25.826.
TRACIE LINDEMAN, ESQ - Notification received on 2020-12-03 09:10:25.759.
LORENA VALENCIA, PD - Notification received on 2020-12-03 09:10:25.801.
DIV. OF PAROLE & PROBATION - Notification received on 2020-12-03 09:10:25.734.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

12-03-2020:09:08:46

Clerk Accepted:

12-03-2020:09:09:44

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

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NEVADA

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Code: 1670

Tracie K. Lindeman, Esq.
Nevada Bar No. 5049
P.O. Box 3733
Carson City, Nevada 89702
Tel. 775.297.4877
E-mail: tlindeman@appellatesolution.com

**IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

ANTHONY CLARKE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. CR19-1352

SUPREME COURT NO. 80130

**REQUEST FOR SUBMISSION OF
EX PARTE MOTION FOR PAYMENT OF ATTORNEY'S FEES**

COMES NOW, Appellant, ANTHONY CLARKE, by and through appointed counsel, TRACIE K. LINDEMAN, Esq., and requests that the Ex Parte Motion for Payment of Attorney's Fees on file herein be submitted to the Court for decision.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

///

///

///

///

Respectfully submitted this 27th day of January, 2021.

/s/ Tracie K. Lindeman

Tracie K. Lindeman, Esq.

Nevada Bar No. 5049

P.O. Box 3733

(775) 297-4877

tlindeman@appellatesolution.com

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this date I forwarded a true copy of the foregoing document
addressed to:

Krista Meier, Esq. (via eflex and e-mail)
Washoe County Conflict Contract Administrator

DATED this 27th day of January, 2021.

/s/ Tracie K. Lindeman
Tracie K. Lindeman, Esq.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-01-27 20:07:59.506.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-01-27 20:07:59.618.
TRACIE LINDEMAN, ESQ - Notification received on 2021-01-27 20:07:59.556.
LORENA VALENCIA, PD - Notification received on 2021-01-27 20:07:59.596.
DIV. OF PAROLE & PROBATION - Notification received on 2021-01-27 20:07:59.531.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

01-27-2021:20:04:12

Clerk Accepted:

01-27-2021:20:07:28

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Request for Submission

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

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LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-01-28 08:21:24.56.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-01-28 08:21:24.685.
TRACIE LINDEMAN, ESQ - Notification received on 2021-01-28 08:21:24.611.
LORENA VALENCIA, PD - Notification received on 2021-01-28 08:21:24.654.
DIV. OF PAROLE & PROBATION - Notification received on 2021-01-28 08:21:24.585.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

01-27-2021:20:01:47

Clerk Accepted:

01-28-2021:08:20:58

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

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-

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LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-01-28 08:22:04.534.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-01-28 08:22:04.661.
TRACIE LINDEMAN, ESQ - Notification received on 2021-01-28 08:22:04.585.
LORENA VALENCIA, PD - Notification received on 2021-01-28 08:22:04.634.
DIV. OF PAROLE & PROBATION - Notification received on 2021-01-28 08:22:04.56.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

01-27-2021:20:07:17

Clerk Accepted:

01-28-2021:08:21:39

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ex-Parte Mtn

Filed By:

Tracie Lindeman

You may review this filing by clicking on the following link to take you to your cases.

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CLARKE

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-03-01 08:34:38.161.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-03-01 08:34:38.377.
TRACIE LINDEMAN, ESQ - Notification received on 2021-03-01 08:34:38.246.
LORENA VALENCIA, PD - Notification received on 2021-03-01 08:34:38.329.
DIV. OF PAROLE & PROBATION - Notification received on 2021-03-01 08:34:38.207.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

02-28-2021:19:07:22

Clerk Accepted:

03-01-2021:08:34:11

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Notice

Filed By:

Krista Meier, Esq.

You may review this filing by clicking on the following link to take you to your cases.

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TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

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

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 80130
District Court Case No. CR191352

NOTICE OF TRANSFER TO COURT OF APPEALS

Pursuant to NRAP 17(b), the Supreme Court has decided to transfer this matter to the Court of Appeals. Accordingly, any filings in this matter from this date forward shall be entitled "In the Court of Appeals of the State of Nevada." NRAP 17(e).

DATE: March 01, 2021

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

Notification List

Electronic

Washoe County District Attorney \ Jennifer P. Noble
Tracie Lindeman

Paper

Hon. David A. Hardy, District Judge
Jacqueline Bryant, Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-03-04 14:27:24.829.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-03-04 14:27:24.967.
TRACIE LINDEMAN, ESQ - Notification received on 2021-03-04 14:27:24.884.
LORENA VALENCIA, PD - Notification received on 2021-03-04 14:27:24.932.
DIV. OF PAROLE & PROBATION - Notification received on 2021-03-04 14:27:24.856.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

03-04-2021:14:26:07

Clerk Accepted:

03-04-2021:14:26:40

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Supreme Court Notice

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

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NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 80130
District Court Case No. CR191352

REMITTITUR

TO: Alicia L. Lerud, Washoe District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: May 26, 2021

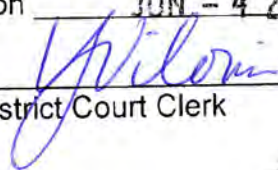
Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):
Hon. David A. Hardy, District Judge
Washoe County District Attorney
Tracie Lindeman

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on JUN - 4 2021


District Court Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 80130
District Court Case No. CR191352

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 28th day of April, 2021.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
May 26, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY CLARKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80130-COA

FILED

APR 28 2021

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

ORDER OF AFFIRMANCE

Anthony Clarke appeals from a judgment of conviction, pursuant to a guilty plea, of burglary. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

The State charged Clarke by information with burglary, specifically alleging that he entered a restaurant with the intent to commit larceny therein. Pursuant to negotiations, Clarke agreed to plead guilty in exchange for the State's stipulation to a recommended sentence of 12 to 36 months. After a thorough canvassing, Clarke pleaded guilty pursuant to the agreement.¹

Months later, but prior to sentencing, the Washoe County Public Defender filed a motion on Clarke's behalf to allow him to represent himself, as well as a motion requesting a hearing pursuant to *Young v.*

¹On appeal, Clarke erroneously contends that an amendment to NRS 205.060, which became effective on July 1, 2020, has some bearing on the case at hand. Clarke committed the burglary on or around March 2, 2019, and was sentenced on November 25, 2019. There is no indication that the Nevada Legislature intended for the amendment to NRS 205.060 to be retroactive. *See State v. Second Judicial Dist. Court*, 124 Nev. 564, 569, 188 P.3d 1079, 1082 (2008) (noting the general rule that the proper penalty for an offense is that in effect at the time the offense was committed unless the Legislature expresses clear intent to apply a different statute retroactively).

State, 120 Nev. 963, 102 P.3d 572 (2004). The district court granted the evidentiary hearing pursuant to *Young* and conducted the hearing on the same day that was initially scheduled for Clarke's sentencing. The district court conducted a *Faretta*² canvas, which resulted in the court granting Clarke's request to represent himself, and appointed him counsel from the public defender's office acting in a standby capacity.

A week after the hearing, Clarke moved to withdraw his guilty plea. The State opposed Clarke's motion, and the district court entered an order denying the same. Approximately 30 days later, Clarke appeared for his sentencing hearing. Part way through this hearing, Clarke changed his mind regarding self-representation and requested that the court permit standby counsel to represent him during sentencing. The district court denied his request. In its denial, the district court specifically found Clarke's request to be "intentional gamesmanship." Ultimately, the district court sentenced Clarke to a term of 28 to 96 months in prison. This appeal followed.

On appeal, Clarke first argues that the district court erred by denying his motion to withdraw his guilty plea. We review the district court's denial of a motion to withdraw a guilty plea for a clear abuse of discretion. *Mitchell v. State*, 109 Nev. 137, 141, 848 P.2d 1060, 1062 (1993). NRS 176.165 permits a defendant to move to withdraw a plea of guilty before a sentence is imposed. The district court must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just. *Stevenson v. State*, 131 Nev. 598, 603, 354 P.3d 1277, 1281 (2015).

²*Faretta v. California*, 422 U.S. 806 (1975).

Clarke argues that he only pleaded guilty due to his former defense counsel's representation that he had been identified in an in-person lineup. The district court found that the existence of lineup evidence was not central to Clarke's plea, as Clarke mentioned the lineup for the first time at a hearing on his motions requesting a hearing pursuant to *Young* and for self-representation. Further, the district court noted the logical fallacies in Clarke's assertion, as he was apprehended by the restaurant owner at the scene of the crime, his theft was caught on surveillance camera, and he admitted in his motion that he stole from the restaurant. Thus, it is unclear how or why evidence of a lineup, if one had occurred, would have had any bearing on Clarke's plea. Importantly, there is no evidence in the record to support that an in-person lineup in fact occurred, which is presumably an event that Clarke would have recalled prior to pleading guilty. Thus, any alleged procedural defects pertaining to a non-existent lineup need not be entertained by this court. Because the record supports the district court's decision that, based on the totality of the circumstances, there was no fair and just reason to grant Clarke's motion to withdraw his guilty plea, we conclude that the district court did not abuse its discretion.

Second, Clarke contends that the district court erred by denying Clarke's request to reinstate counsel at the time of sentencing. We review the district court's decision to deny the appointment of counsel for an abuse of discretion. *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). A request to reinstate counsel after acting pro se depends on whether the defendant made a voluntary, intelligent, and timely decision to change the nature of his representation. *Arajakis v. State*, 108 Nev. 976, 982, 843 P.2d 800, 804 (1992). "[A] district court may deny a request to


withdraw from self-representation when said request is made with an intent to delay or obstruct proceedings.” *Meisler v. State*, 130 Nev. 279, 284, 321 P.3d 930, 934 (2014). Upon a showing of dilatory intent by a defendant, it is within the district court’s discretion to deny a request to reinstate counsel and require the defendant to proceed with either designated counsel or pro se. *Arajakis*, 108 Nev. at 981, 843 P.2d at 803; *see also United States v. Flewitt*, 874 F.2d 669, 674 (9th Cir. 1989) (“Of course, a request for self-representation need not be granted if it is intended merely as a tactic for delay.”).


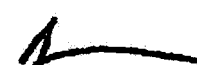
Here, the record confirms that prior to his initial sentencing hearing Clarke invoked his right to self-representation. After conducting a proper *Faretta* canvass, the district court granted Clarke’s request, appointed standby counsel, and continued his sentencing hearing for 30 days. At this hearing, Clarke changed course again, requesting the assistance of standby counsel part way through the adjudication. The district court denied the request, concluding that Clarke’s behavior was part of a pattern of dilatory activity that amounted to “intentional gamesmanship.”³ Although standby counsel was present at the sentencing hearing, there is no indication in the record that counsel was prepared to argue on Clarke’s behalf. Moreover, the district court was in the best position to determine whether Clarke’s request was a dilatory act aimed at

³Even if the district court failed to find Clarke’s request to be intentional gamesmanship, the court would have been within its discretion to deny the request as untimely as Clarke attempted to invoke counsel in the middle of the sentencing hearing without showing good cause. *See Arajakis*, 108 Nev. at 981, 843 P.2d at 803 (holding that the district court acted within its discretion in denying a defendant’s request to withdraw from self-representation where he waited five weeks after trial, and on the day of sentencing, to retract his waiver of counsel).

causing further delay. *See Meisler*, 130 Nev. at 284, 321 P.3d at 934 (affirming the district court's denial of a defendant's request to withdraw from self-representation where standby counsel was unprepared for trial and the record revealed an intent to delay). Based on this record, we conclude that the district court did not abuse its discretion in denying Clarke's last-minute request for counsel during sentencing.⁴ Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons

 _____, J.  _____, J.

Tao Bulla

cc: Hon. David A. Hardy, District Judge
Tracie Lindeman
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

⁴Clarke argues on appeal that the district court abused its discretion by considering an altercation surrounding the return of the stolen money. Clarke fails to show how this consideration resulted in error. *See Silks v. State*, 92 Nev. 94, 545 P.2d 1159, 1161 (1976). Additionally, the sentence imposed was within the statutory range and the record reflects that the district court considered several factors. Thus, Clarke's argument is meritless. *See Deveroux v. State*, 96 Nev. 388, 610 P.2d 722 (1980) (holding that the degree to which the district court considers defendant's prior record is within its wide discretionary authority).

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-06-04 14:35:07.485.
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LORENA VALENCIA, PD - Notification received on 2021-06-04 14:35:07.613.
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******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-04-2021:14:34:10

Clerk Accepted:

06-04-2021:14:34:36

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Supreme Court Remittitur
Supreme Ct Clk's Cert & Judg
Supreme Court Order Affirming

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Anthony Clarke
(Name / Number)
Northern Nevada Correctional Center
Post Office Box 7000
Carson City, NV 89702

Plaintiff/Petitioner, In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Anthony Clarke
Plaintiff/Petitioner,

vs.
STATE OF NEVADA
Defendant/Respondent.

Case No.: CR 19-1352

**MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS**

*to file Petitions for writs
of Habeas Corpus*

COMES NOW, Anthony Clarke, Plaintiff / Petitioner, in his proper person, and respectfully moves this Honorable Court for leave to proceed in forma pauperis in the above-entitled action, without requiring Plaintiff / Petitioner to pay fees, provide security, or other costs for prosecuting this action, including service of process.

This motion is made pursuant to the provisions of NRS 12.015, the accompanying sworn affidavit of Plaintiff / Petitioner, and accompanying Institutional Financial Certificate indicating funds, if any, in his prison account.

Respectfully submitted this 10 day of June, 20 21

Anthony Clarke
(Signature)
Anthony Clarke

AFFIDAVIT OF Anthony Clarke

STATE OF NEVADA)

CARSON CITY) ss.

I, Anthony Clarke, being duly sworn according to law, state the following in support of my accompanying Motion for Leave to Proceed in Forma Pauperis.

1. That I request an attorney be appointed for me in this action.

2. Are you presently employed? Yes _____ No ✓

A. If the answer is yes, state the amount of your salary or wages per month, and give name and address of your employer.

N/A

B. If the answer is no, state the date of last employment and the amount of salary and wages per month which you received: N/A

3. Have you received in the past twelve months any money from any of the following sources?

A. Business, profession or form of self-employment? Yes _____ No ✓

B. Rent payments, interest or dividends? Yes _____ No ✓

C. Pensions, annuities or life insurance payments? Yes _____ No ✓

D. Gifts or inheritances? Yes ✓ No _____

E. Any other sources? Yes _____ No ✓

4. Do you own case or equivalent prison currency, or do you have money in a checking or savings account? Yes _____ No ✓ (See the accompanying Inmate Financial Certificate) 2,314.74

5. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes _____ No ☒

If your answer is yes, describe the property and state its approximate

value: N/A

6. List the persons who are dependent upon you for support, state your relationship to those persons and indicate how much you contribute towards their

support: None

UNDER THE PENALTY OF PERJURY, Pursuant to NRS 208.165, the above affidavit is true and correct to the best of my personal knowledge.

Dated this 10 day of July, 20 21.

Anthony Clarke
(Signature)
Anthony Clarke
(Print Name)
1192204
(I.D. No.)
Affiant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any persons.

6/10/21
(DATE)

Anthony Clarke
(SIGNATURE)
Anthony Clarke

1 Anthony Clarke
2 1192204

3 Northern Nevada Correctional Center
4 Post Office Box 700
Carson City, NV 89702

5 Petitioner, In Proper Person

7 IN THE Second JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8
9 IN AND FOR THE COUNTY OF WASHOE

10 Anthony Clarke,
11 Petitioner,

12 vs.

13 THE STATE OF NEVADA,
14 Respondent.

Case No.: CR19-1352

Dept. No.: 15

**PETITION FOR WRIT OF HABEAS
CORPUS (POST-CONVICTION)**

(Non Death Penalty)

INSTRUCTIONS:

- 16 1. This petition must be legibly handwritten or typewritten, signed by the petitioner and
17 verified.
- 18 2. Additional pages are not permitted except where noted or with respect to the facts which
19 you rely upon to support your grounds for relief. No citation of authorities need be furnished.
20 If briefs or arguments are submitted, they should be submitted in the form of a separate
21 memorandum.
- 22 3. If you want an attorney appointed, you must complete the Affidavit in Support of Motion
23 for Leave to Proceed In Forma Pauperis. You must have an authorized officer at the prison
24 complete the certificate as to the amount of money and securities on deposit to your credit in
25 any account in the institution.
- 26 4. You must name as Respondent the person by whom you are confined or restrained. If you
27 Are in a specific institution of the department of corrections, name the warden or head of the
28

1 institution. If you are not in a specific institution of the department but within its custody, name the
2 director of the department of corrections.

3 (5) You must include all grounds or claims for relief which you may have regarding your
4 conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing
5 future petitions challenging your conviction and sentence.

6 (6) You must allege specific facts supporting the claims in the petition you file seeking
7 relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions
8 may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of
9 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you
10 claim your counsel was ineffective.

11 (7) When the petition is fully completed, the original and copy must be filed with the
12 clerk of the state district court for the county in which you were convicted. One copy must be mailed
13 to the respondent, one copy to the attorney general's office, and one copy to the district attorney of
14 the county in which you were convicted or to the original prosecutor if you are challenging your
15 original conviction or sentence. Copies must conform in all particulars to the original submitted for
16 filing.

17 PETITION

18 1. Name of institution and county in which you are presently imprisoned or where and
19 how you are presently restrained of your liberty: HNCC Carson City, Nevada

20 2. Name and location of court which entered the judgment of conviction under attack:
21 Second Judicial District Court 75 Court Str Reno NV 89501

22 3. Date of judgment of conviction: 11-25-2019

23 4. Case Number: CR 19-1352

24 5. (a) Length of sentence: 2 1/2 years To 8 years

25 _____
26 _____
27 _____

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes _____ No ☒

If "yes", list crime, case number and sentence being served at this time:

N/A

7. Nature of offense involved in conviction being challenged: Burglary, a violation of NRS 205.060, a category B Felony, as charged in the information

8. What was your plea? (check one)

(a) Not guilty _____ (c) Guilty but mentally ill _____

(b) Guilty ☒ (d) Nolo contendere _____

9. If you entered a plea of guilty to one count of an indictment or information, and a plea of not guilty to another count of an indictment of information, or if a plea of guilty was negotiated, give details: The original plea agreement between the Washoe County District Attorney was 12 to 36 months, petitioner agreed to that prison term, However at Sentencing the Court sentenced petitioner to a prison term of 2 1/2 years to 8 years.

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury _____

(b) Judge without a jury _____

11. Did you testify at the trial? Yes _____ No ☒

12. Did you appeal from the judgment of conviction?

Yes ☒ No _____

13. If you did appeal, answer the following:

(a) Name of court: Nevada Supreme Court

(b) Case number or citation: 80130 - COA

(c) Result: Order the judgment of the District Court Affirmed

(d) Date of result: April 28, 2021

(Attach copy of order or decision, if available)

14. If you did not appeal, explain briefly why you did not:

N/A

//

//

//

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes _____ No

16. If you answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: _____

(2) Name of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes _____ No

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: _____

(2) Nature of proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion?

Yes _____ No _____

(2) Second petition, application or motion?

Yes _____ No _____

(3) Third or subsequent petitions, applications or motions?

Yes _____ No _____

Citation or date of decision.

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length)

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify: N/A

(a) Which of the grounds is the same: _____

(b) The proceedings in which these grounds were raised:

N/A

11

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

11

18. If any of the grounds listed in Nos. 23(a, (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

11

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

This petition within the 1 year of the
Judgment of conviction or the filing of a decision on direct appeal.

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes _____ No ✓

If yes, state what court and the case number:

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: N/A

1 //
2 //
3 22. Do you have any future sentences to serve after you complete the sentence imposed
4 by the judgment under attack:

5 Yes _____ No

6 23. State concisely every ground on which you claim that you are being held unlawfully.
7 Summarize briefly the facts supporting each ground. If necessary you may attach pages stating
8 additional grounds and facts supporting same.

9 (a) Ground One:

10 Six Amendment To The United States Constitution Violated
11 by Government Caused IAC which Prejudged Court at
12 Sentencing.
13

14 Supporting Facts:

15 The petitioner seeks new sentencing hearing because
16 judge was prejudice by failure of Washoe County Government
17 lawyers for defense to present evidence to repudiate the
18 expressed belief in the false representation of the
19 police reports. This biased frame of mind appears in the court
20 record at Exhibit 1 Joint Appendix 157 (pg 14) of the sentencing
21 transcripts of fact that there existed a "dangerous set of
22 ingredients" to which the prosecutor agrees, but the sen-
23 tencing attorney had failed to provide all the available evid-
24 ence which the defendant would have used to free the mind
25 of the judge from his biased conclusions of "danger".

26 The defendant speaks up for himself but for deprivation
27 of the evidence omitted by the police, prosecutor he be-
28 came confused by the omissions of the police report
that in fact it was not owner "Pito" who tackled

Ground One Con't :

1. the defendant but the third party employee mentioned by def-
2. ndant at page 15 of transcript line 11 & 12 : " it was him [Mr. Pito],
3. one of his workers and the customer".
4. What really happened should have been presented to the court on a
5. Sentencing memorandum after careful research and investigation.
6. Had the investigation been done the facts could have been used to
7. leverage a non felony sanction, and since the defendant had clear
8. right to effective assistance at plea bargaining (Lafler v. Cooper;
9. Missouri v. Frye) The Defendant was injured both at sentencing &
10. negotiations (see count II).
- 11 The crime of larceny and burglary must prove intent. The govern-
- 12 ment paid defense attorney could have easily obtained the atta-
13. ched documents at Exhibit 2 which clearly shows the defen-
14. dant had no motive for taking money as he had over \$600
15. dollars on him which he had won between 6 pm & 8:15 pm at
16. Cal Neva while intertaining himself on computer slots and having
17. 5 or 6 drinks of shots of hard alcohol and beers. He entered the
18. restaurant asked the first person he saw if it was open - he was
19. called a NIGGER by that person (customer). In a moment of
20. Vengeful anger he grabbed the tip money and left. His intent
21. was to take, but retribution for insult. Exhibit 2 shows he
22. had \$ 377 dollars in cash at jail on the date of the alleged
23. larceny. At Exhibit 3 is the declaration of probable cause
24. which states the existence of two prior larceny, but a minimum
25. of research by the government paid attorneys would have re-
26. vealed that only one conviction was valid because the def-
27. endant had no counsel for one of the convictions.

(b) Ground Two:

6th Amendment violated By Washoe County Public Defender's failure to confront the theory of the case police and prosecution during negotiations making the plea of guilty based on insufficient knowledge.

Supporting Facts:

All prior paragraphs are incorporated here as more fully elaborated. As stated above, the petitioner had about Seven hundred dollars in his pocket when he entered the restaurant and this vitiates the theory of intent to commit larceny; if there is no larceny there can't be invoked any enhancement of larceny as permitted in the law of that time (that enhancement scheme has been repealed by legislature in 2019); the police and prosecutor covered up the facts of possession of hundreds of dollars by omission from the Declaration of Probable Cause; this omission is proven by the evidence at Exhibit 1, 2 and 3, The Washoe County Public Defendant was informed by the petitioner of the cover-up and of the theft of hundreds of dollars by Pito's male bartender employee, of whom no mention is made in the Declaration of Probable Cause. At Exhibit 4 are the notes of public defender Pusich which reflect she is notified of his possession of money which would provide affirmative defenses of not having intent -- see item 2 at the bottom of page,

"
civilians took money from him before
police arrived. Police declined to
investigate. His requests may be on
body cam."

Cont from page 8.

This case is one of the types of police abuse of the larceny enhancement clause that opens a loophole for greater punishment of burglary without having intent, and motivated the legislation to repeal.

But for Pusich's failure to engage in zealous follow up investigation interviews the opportunity to leverage a more favorable outcome was lost, either incentivized by economic or racial class pressures or fear of bureaucratic backlash of the coercive power of the police or prosecutor remains to be discovered.

The State of Nevada, by and through the criminal administration of justice in Washoe County must not be allowed to gain an advantage through the deliberate omissions of facts, the practice of the prosecutor to carry out charge-loading based on such omissions, and impose disincentives on its tax paid

"defense" attorney that prevented proper investigation that entails "roking the boat" by the use of Affirmative defense of "contributory negligence."

1 WHEREFORE, petitioner prays that the court grant petitioner
2 Relief to which he may be entitled in this proceeding.

3 EXECUTED at Carson City, Nevada on the 10
4 Day of June, 20 21.

8 x Anthony Clarke
9 Anthony Clare

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

Anthony Clarke
Petitioner
Anthony Clarke

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 10 day of June 2021, by placing the same into the hands or prison law library staff for posting in the U.S. Mail, pursuant to N.R.C.P. 5:

Washoe County District Attorney
One So. Sierra
Reno NV

_____, Nevada 89 501

Anthony Clarke
Signature of Petitioner In Pro Se
Anthony Clarke

INDEX OF EXHIBITS

Exhibit Number 1 Number of Pages 2
Exhibit Description Sentencing Transcript case # CR 19-1352 pg 14

Exhibit Number 2 Number of Pages 4
Exhibit Description Evidence to Support Absence of Intent

Exhibit Number 3 Number of Pages 3
Exhibit Description False Declaration of Probable Cause

Exhibit Number 4 Number of Pages 3
Exhibit Description Public Defender Note

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

Exhibit Number _____ Number of Pages _____
Exhibit Description _____

EXHIBIT 1

The Second Judicial District Court of The State of
Nevada County of Washoe Before The Honorable
David N. Hardy District Judge Case No[#] CR 19-1352
Transcript of Proceedings, Monday, November 25th
2019 Reno, Nevada (Sentencing page 14).
The court percieves "a dangerous set of
ingredients"

EXHIBIT 1

1 THE COURT: You say the \$35 was returned, but it
2 was returned after the owner had chased him and tackled
3 him, and then there was some person-to-person contact?

4 MS. NORTHINGTON: Yes.

5 THE COURT: It seems to me to be a dangerous set
6 of ingredients.

7 MS. NORTHINGTON: I would agree with you, your
8 Honor.

9 THE COURT: Anything else?

10 MS. NORTHINGTON: No, your Honor. Thank you.

11 THE COURT: Thank you.

12 THE DEFENDANT: Yes, your Honor, may I speak?

13 THE COURT: Yes.

14 THE DEFENDANT: Specifically about the money being
15 returned, Mr. Pito received the money from me as soon as
16 I came out the door. He didn't have to chase me. Him
17 and his customer came out -- first the customer came out
18 and Mr. Pito came. He asked for the money and I gave it
19 back. This is what the video shows.

20 The witnesses testified in their own statement
21 that -- I'm not trying to have a trial, I'm just bringing
22 the facts to the court's attention that was not submitted
23 into evidence -- the customer came out and then Mr. Pito
24 came out, asked me for the money. I gave him the money.

1 Not only did I give him that money, there was other money
2 that was also -- I had over \$600 on me. When I left,
3 350 -- 377, which I was booked into the county jail with,
4 but the money was given back and they didn't have to
5 fight me and none of that, because Mr. Pito gave a
6 witness statement saying that he held me down and I
7 refused to aggress towards him. The money was already
8 given back.

9 And there was another issue that I don't like --
10 that I'm going to bring to the court's attention. There
11 was more than Mr. Pito there -- it was him, one of his
12 workers and a customer. They were all on the scene when
13 the police arrived.

14 And this is the last point I'd like to make. I
15 don't want to argue the case. I admit to what I've done
16 but it was a report of a fight that took place, not a
17 report of a tip jar being taken. But when the police
18 arrived, no one spoke about a fight. The actual fact was
19 that not only was money given back to him, money out of
20 my pocket was also taken. I would say two-thirds,
21 almost \$400 taken from me. Again, I deserved it because
22 of what I've done. But that's all I'd like to say.

23 THE COURT: Thank you.

24 THE DEFENDANT: I'm kind of nervous.

EXHIBIT 2

Documentary Evidence of Possession of cash
that Rebuts claim of Motive for taking Money

WASHOE COUNTY SHERIFF'S OFFICE DETENTION PROPERTY RECORD FORM

3/2/19

P#:

Property Tag:

242

Inmate Name:

Clarke, Anthony

Date of Birth:

Booking Number:

1903321

Intake Search Deputy/ID:

4665/

VALUABLE PROPERTY

N/A	Wallet	_____	brn X 2	Keys	_____	N/A
	I.D.	_____		Watch	_____	
	Knife	_____		Glasses	_____	
	Cellular	_____		Cigarettes	_____	2 packs open
	Jewelry	_____				

Misc. Other

~~DEED~~, MISC CD, ROLLING PAPERS, DISPO X 2,
HYEN, CONS

MONEY INVENTORY AT BOOKING

Options for inmate money upon release

Account balances with \$50 or less will be released with cash. Any account balance over \$50, will receive up to \$50 in cash and a check for the remainder. All Inmates must acknowledge receipt of cash or check by initialing below.

Cash

OR

Check

Inmate Initials

Inmate Initials

Total Inmate Intake Funds

377.00

Verifying Deputy Initials/ID:

Kiosk

I agree with the above inventory of money and property.

Inmate Signature: X

Deputy Initials/ID:

4665

INMATE CLOTHING DESCRIPTION/INVENTORY

N/A	Pants	_____	blu	N/A	Shirt	_____	blk
	Jacket	_____	blk		Shoes	_____	blk
X	Hat	_____			Socks	_____	brn
X	Underwear	_____			Purse	X	
	Belt	_____	brn		Bra	X	
X	Other	_____			Other	X	
X	Other	_____			Other	X	

I agree with the above inventory of personal clothing/items taken at Station 1 (Intake)

Inmate Signature: X

Anthony Clarke

Deputy Initials/ID:

4665

I agree with the above re-inventory of personal clothing/items at Station 5 (Showers)

Inmate Signature: X

Deputy Initials/ID:

I acknowledge receipt of the above valuable property and personal clothing.

Inmate Signature: X

Anthony Clarke

Deputy Initials/ID:

2833

P00150568 : CLARKE, ANTHONY

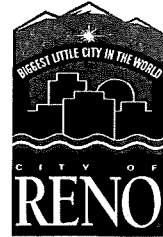
WC H09 25 CPAN

Main Balance: \$0.00

Receipt	Date	Type	Bill Amount	Bill Collect	Comment	Adjust	Release Balance
3120230	3/2/2019	BillPay			PAYMENT FOR TRANS 2040478 TO Medical : 02/26/17 MED ACC / MED FEE : PAID IN FULL	-\$15.00	\$338.21
3120229	3/2/2019	BillPay			PAYMENT FOR TRANS 2040477 TO Medical : 02/26/17 MED FEE : PAID IN FULL	-\$5.00	\$353.21
3120228	3/2/2019	BillPay			PAYMENT FOR TRANS 1954762 TO Medical : 12/19/16 MED ACC / MED FEE X2 : PAID IN FULL	-\$18.79	\$358.21
3120227	3/2/2019	Add			BOOKING CASH	\$377.00	\$377.00
3120220	3/2/2019	Open			RESIDENT RE-OPEN	\$0.00	\$0.00



Reno Police Department Memo



Date: 07/30/2020
To: Anthony Clarke
From: Sgt. T. Johnson #9476
Subject: Response to your inquiry re: RPD19-4180

Mr. Clarke,

In response to your letter addressed to the Reno Police Department Chief of Police Jason Soto, dated June 20th 2020, I hope I can shed some light on some of your questions.

In regards to your arrest on March 2nd 2019, Reno Police Department case number 19 - 4180, I have read the report written by the arresting officer which indicates that you had two prior petit larceny convictions within the last 7 years prior to this incident.

NRS 205.060 subsection 5. contains the following verbiage:

5. The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:

- (a) Two or more times for committing petit larceny within the immediately preceding 7 years; or*
- (b) Of a felony.*

The arresting officer also articulated that upon review of the video surveillance of the crime, you entered the store and conducted no other business than to steal the money from the tip jar and exit the business.

This information, in conjunction with your two prior arrests within 7 years for petit larceny gave the officers probable cause to make the arrest for the burglary.

The Washoe County Sheriff's Office Deputy who searched you upon booking did locate \$377 in cash on your person; the argument that the possession of the cash negated the charge of burglary could be made as a mitigating factor in your

defense. This however would have been appropriate to argue by your defense counsel at the time of trial.

Upon review of the totality of the circumstances, the Reno Police Department officers involved committed no crime in arresting you for the offense of burglary.

As per your request for the transcript of the 911 call to the Reno Police Department regarding this incident, I have verified with dispatch that the calls exist for up to two years before being deleted. Please go to [reno.gov/ Government/ Public Safety Dispatch](http://reno.gov/Government/PublicSafetyDispatch) and at the bottom of the page you will find a link for public information requests related to the dispatch center.

If there are further questions that I can answer, you are welcome to write me directly if you feel so inclined.



Sergeant T. Johnson #9476
Reno Police Department Internal Affairs Unit

EXHIBIT 3

Declaration of Probable Cause
which States False Facts Under Penalty
of Perjury

V4. 688

P-150568

19-3321

ORIGINAL

ARREST REPORT AND
DECLARATION OF PROBABLE CAUSE

RPD0048360C

CASE # 19-480

R666603

FILED

COURT OF JURISDICTION

04 Mar 2019 7:33 am

CHIEF OF POLICE

Reno Justice Court

AKA/ALIAS

PRINT CLEARLY

ARRESTEE'S (Last, First, Middle)
NAME

CLARKE, ANTHONY

RESIDENCE (Street, City, State, Zip)
ADDRESS

315 RECORD ST. RENO NV

RACE <input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Unknown	<input type="checkbox"/> Indian <input type="checkbox"/> Asian	SEX <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	ETHNICITY <input type="checkbox"/> Hispanic <input type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown	DOB 4-18-59	SS [REDACTED]	POB CALIFORNIA
AGE 58 HT 5'11" WT 180				HAIR BLC	EYES BRO	

OCCUPATION &
BUS ADDRESS

UNEMPLOYED

DRIV LIC

DRIV LIC

NEXT OF KIN

ARRESTEE'S VEH ☐ Stolen ☐ Left at Scene
☒ Not Applicable ☐ Impounded ☐ Held to Own For

HOME PHONE

BUS PHONE

SCARS, MARKS, TATTOOS

NONE

ARREST DATE 3-2-19 TIME 2125 LOCATION 1ST / LAKE ST. RENO NV

OFFENSE DATE 3-2-19 TIME 2111 LOCATION 1ST / LAKE ST. RENO NV

NRS/ORD #	NOC	BAIL	WARRANT # & DATE	CHARGE	F=Felony, G=Gross Misd, M=Misd F-G-M
205.140.2	50424			BURGLARY	F

ARRESTING OFFICER(S)
AND ID #

MCGURK 14824

PRIVATE PERSON MAKING
THE ARREST (Citizen Arrest)TRANSPORTING OFFICER(S)
AND ID #

Jameson 14890 Callaghan 14788

REVIEWING SUPERVISOR
AND ID #

DUNNISTRE 8270

The undersigned, MCGURK, a police officer, of RPD, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s). Either personally or upon information and belief this officer learned the following facts and circumstances which support the arrest and detention:

- See Attached -

19 MAR 3 AM 5:02

RELS TO _____ DATE _____ BY _____
DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 2 DECLARANT B. O'Neil I.D.# 14824

REVIEWED FOR PROBABLE CAUSE (PC)

PC FOUND ☒ PC NOT FOUND ☐ DATE _____ TIME _____

DEFENDANT ORDERED RELEASED, DATE _____

8:35 am, Mar 04 2019

MAGISTRATE

MAGISTRATE

V4. 688

DECLARATION SUPPLEMENT

Page: 2 of 2CASE# 19-4180

On 3/2/19 at approximately 2114 hours Officers arrived in the area of 1st/ Lake St on a report of a fight.

Officers Good and Caprioli arrived on scene and detained an Anthony Clarke. Owner of Taste of Chicago, Steve Peto informed Officers that Anthony entered the business, took money out of his employees tip jar, and then ran out.

Anthony is seen on security footage walking eastbound outside of the business, enter and directly go to the front counter. Anthony waits for a customer to turn her head and then reaches his right hand into the tip jar and quickly leaves the business through the same door.

Anthony was chased by Steve who attempted to stop him until Officers arrived on scene. Steve was not able to hold onto Anthony. Anthony did not attempt to hit or make advances on Steve but continued to run away.

RPD records confirmed Anthony had two convictions for petit larceny through a prior history check. Anthony had a prior arrest on 12/26/15 for petit larceny with a conviction on 12/28/15 out of RMC. Anthony also had an arrest on 10/17/15 for petit larceny with a conviction on 10/20/15 out of RMC.

Anthony was arrested for Burglary and transported to WCSO without incident.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC).
PC FOUND ☐ PC NOT FOUND ☐

DECLARANT B. McJrI.D.# 14824

DATE: _____, MAGISTRATE PAGE _____ OF _____
DEFENDANT ORDERED RELEASED, DATE: _____, MAGISTRATE

EXHIBIT

4

Public Defender Notes

EXHIBIT

4

MEMO TO FILE - PRIVILEGED AND CONFIDENTIAL

Date: July 19, 2019 Case No: RCR2019-100994 ✓ Dept: R6

PD No: 19-2128

Deft: Anthony Clarke

PD: Jarrod Hickman Event PD: Maizie DA: MacLellan

Current Hearing Date: Mandatory Status Conference 7/18/2019 1:30:00 PM ✓

Future Hearing: Prelim 8/1/19 1:30 Court: RJC ✓

Interpreter needed: No

In custody? Yes ✓ Tear-off given? No Send Notice Letter? Yes ✓

New Address/Phone: WCJ

Email Address:

NOTES TO AA:

Send Redacted Discovery? Yes ✓ Send Photos?: No

Evaluation needed? No

Other Notes to AA:

ATTORNEY NOTES:

Next hearing is prelim. Client has no interest in 3-10 year stip offered by state. He is eligible for habitual if convicted. Appears to have several drug offenses that may have been reduced under CA prop 36. But, has sufficient priors without them. Not all within 10 years. But, I explained to him that statutory amendment is not effective in Nevada yet. Has an FTA in this case. So, not going anywhere right now.

Has a couple of issues he wants addressed.

1. Reports being mistreated by the civilians on scene. I suggested he consult a civil attorney. Not an automatic defense to the charge, but may be entitled to compensation.
2. Civilians took money from him before police arrived. Police declined to investigate. His requests may be on bodycams.
3. Burglary would normally require intent before entry. But, he has prior felonies, so petit larceny here would suffice.
4. Thinks AV will be unable to ID him unless they get to see him at prelim. Wants to force lineup. I told him there is a different procedure possible at a prelim to protect against suggestive ID.
5. Asked about loss in tip jar. I explained that for burglary there is not minimum. And, with priors, value here also not a minimum.

MWP

MEMO TO FILE - PRIVILEGED AND CONFIDENTIAL

Date: August 15, 2019 Case No: CR19-1352 ✓ Dept: 15

PD No: 19-2128

Deft: Anthony Clarke

PD: Lorena Valencia Event PD: Maizie DA: Merchant

Current Hearing Date: Arraignment 8/14/2019 9:00:00 AM ✓

Future Hearing: Arr 8/21/19 9 a.m. Court: D15 *mp*
V22

Interpreter needed: No

In custody? Yes ✓ Tear-off given? Send Notice Letter? No ✓

New Address/Phone:

Email Address:

NOTES TO AA:

Send Redacted Discovery?

Send Photos?

Evaluation needed?

Other Notes to AA:

ATTORNEY NOTES:

Action Taken/Continued For: Client would like to discuss further negotiations before pleading.

Negotiation Status: Current offer is PG burglary, cat B. Parties stipulate to 12-36 mos. CL accused of stealing tips from a waitress. Bigger issue comes when bartender tries to intervene. Q whether CL retained property through force, or if force initiated by "good samaritan" co-worker. Witnesses report client not hitting, just trying to run. State charged as burg, based on prior petit larceny convictions.

Goals for Next Hearing: Client wants to find out if state will agree to attempt burg, so that he faces a natural cap Court cannot go above. I told him we would find out. MWP

Other:

Case Notes Complete (Chronos)

BODY CAM REVIEW - not all included, just most important.

1. Off. Good

Initial officer with client. Client makes several statements during initial portion of detention

- They ain't no victim
- Cop asks for ID, tells client he is not free to leave
- Client gives permission to get ID from pocket
- Client says he was beat up in the middle of the street. They beat me up bad and I'll tell you why.
- cop tells client to stop talking
- Client tells cop he doesn't want to press charges but they took his money and everything
- Another officer tells client that he stole their money
- Client respond that they took his money, all \$100 bills
- Good tells client to stop talking

@7:15

-Client says "The only thing I took out of that jar was \$17." Client repeats \$17 multiple times. Client tries to get cops attention to tell him \$17.

@7:55

-Client continues to tell the cop \$17

@8:30

- Client gives consent to search his jacket
- Inside jacket pocket, what appears to be \$25 in 10s and 5s
- Cop has discussion about vic being unable to identify money in a tip jar in unknown amount

@10:00

- Cop finds paraphernalia in jacket (pipe and hypo)
- Client telling cop the money was his
- Cops telling client that he robbed the business and arguing with client about his recitation of events.

2. Autrey

@3:18

-Client tells Autrey that the girl in the store said get the money, she reached into the jar, took the money and then gave it to client who ran out

3. Nickolini

- Owner says he grabbed the client and threw him on the ground twice
- Owner denies that client used any force

@8:15 is the body cam footage of the video surveillance. Based on the distance, it is unclear whether it will ID client, but it clearly shows person reaching into tip jar and running out.

-Owner statement in face of police fishing for robbery charge: (he didn't hit me, he tried to run, I threw him down, he got up and confronted me, he looked like he might be aggressive because he just got thrown to the ground)
This cop takes the money, photographs it, and releases it back to business

4. Manning

-Client says he had three \$100 bills and they had \$17. When cop asks how he knew they had \$17, cop says the owner said it.

5. McGurk

Footage is largely her following other cops around. At the end, as client is being placed into REMSA unit, client again says they had \$17 and took \$200 from me."

Return Of NEF

Recipients

JENNIFER NOBLE, ESQ. - Notification received on 2021-06-18 12:50:16.462.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-06-18 12:50:16.588.
TRACIE LINDEMAN, ESQ - Notification received on 2021-06-18 12:50:16.516.
LORENA VALENCIA, PD - Notification received on 2021-06-18 12:50:16.561.
DIV. OF PAROLE & PROBATION - Notification received on 2021-06-18 12:50:16.49.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-18-2021:12:37:49

Clerk Accepted:

06-18-2021:12:49:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Mtn Proceed Forma Pauperis

Pet Post-Conviction Relief

- **Continuation
- **Continuation
- **Continuation
- **Continuation

Filed By:

Deputy Clerk AZamora

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Anthony Clarke
(Name)1192204

(I.D. No.)

Northern Nevada Correctional Center

Post Office Box 7000

Carson City, NV 89702

Movant, In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOEAnthony Clarke,

Plaintiff/Movant

vs.

STATE OF NEVADA,

Defendant/Respondent

Case No.: CR 19-1352Dept. No.: 15REQUEST FOR SUBMISSION

COMES NOW, Anthony Clarke, in proper person, and respectfully requests submission of his pleading, to wit: Motion for Leave To PROCEED IN Forma Pauperis, filed in this court on 6/18/21, for adjudication on the merits.

This request is made pursuant to the applicable District Court Rules, and Nevada Rules of Civil Procedure.

Respectfully submitted this 24 day of 6, 2021.

By: Anthony Clarke

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-06-30 09:03:54.117.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-06-30 09:03:54.24.
TRACIE LINDEMAN, ESQ - Notification received on 2021-06-30 09:03:54.169.
LORENA VALENCIA, PD - Notification received on 2021-06-30 09:03:54.213.
DIV. OF PAROLE & PROBATION - Notification received on 2021-06-30 09:03:54.143.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

06-30-2021:09:02:54

Clerk Accepted:

06-30-2021:09:03:24

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Request for Submission

Filed By:

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

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NEVADA

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Petitioner,

vs.

Case No. CR19-1352

Dept. No. 15

STATE OF NEVADA,

Respondent.

ORDER GRANTING IN FORMA PAUPERIS

Defendant Anthony Clarke is currently serving a sentence in the Northern Nevada Correctional Center. Mr. Clarke was sentenced on November 25, 2019, to a minimum term of 28 months to a maximum term of 96 months, with 136 days credit for time served for a violation of NRS 205.060, a category B felony. On June 18, 2021, Mr. Clarke filed a motion to proceed in *forma pauperis*.

Pursuant to Nevada Supreme Court's Order ADKT No. 411, a person will be deemed indigent who is unable, without substantial hardship to himself or his dependents, to obtain competent qualified legal counsel on his own. Under this standard, a presumption of substantial hardship attaches to those persons currently serving a sentence in a correctional institution or housed in a mental health facility.

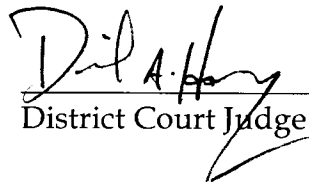
This Court finds that pursuant to NRS 171.188, Mr. Clarke has insufficient assets and/or income to proceed absent a grant of *forma pauperis* status. Pursuant to NRS 171.188 Mr. Clarke is granted leave to proceed in *forma pauperis*.

1 It is further ordered that this Court allow Mr. Clarke to bring such action without
2 costs and file or issue any necessary writ, process, pleading or paper without charge, with
3 the exception of jury fees.

4 It is further ordered that the Sherriff or any other appropriate officer within the
5 state make personal service of any necessary writ, process, pleading or paper without
6 charge for petitioner.

7 **IT IS SO ORDERED.**

8 Dated: July 13, 2021.

9 
District Court Judge

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13 day of July, 2021, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the _____ day of July, 2021, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:


Sheila Mansfield
Judicial Assistant

Return Of NEF

Recipients

JENNIFER NOBLE, ESQ. - Notification received on 2021-07-13 11:36:40.173.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-07-13 11:36:40.289.
TRACIE LINDEMAN, ESQ - Notification received on 2021-07-13 11:36:40.224.
LORENA VALENCIA, PD - Notification received on 2021-07-13 11:36:40.265.
DIV. OF PAROLE & PROBATION - Notification received on 2021-07-13 11:36:40.199.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-13-2021:11:35:35

Clerk Accepted:

07-13-2021:11:36:08

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Grant in Forma Pauperis

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Petitioner,

vs.

Case No. CR19-1352

Dept. No. 15

STATE OF NEVADA,

Respondent.

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

Before this Court is Petitioner Anthony Clarke's unsubmitted Petition for Writ of Habeas Corpus filed on June 18, 2021. Mr. Clarke was sentenced on November 25, 2019, to a minimum term of 28 months to a maximum term of 96 months, with 136 days credit for time served for a violation of NRS 205.060, a category B felony. Mr. Clarke pled guilty and represented himself at sentencing. The Nevada Court of Appeals affirmed Mr. Clarke's sentence on June 4, 2021.

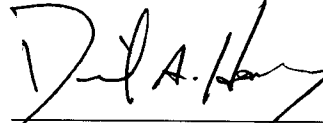
NRS 34.730(2) requires a petition to name as a respondent the officer by whom the petitioner is confined or restrained and be served by mail upon that person, and a copy of the petition must also be served upon the Nevada Attorney General.

Upon review of Mr. Clarke's petition, this Court concludes it does not comply with the requirements set forth in NRS 34.730. Specifically, the Certificate of Service does not indicate it has been served upon the Northern Nevada Correctional Center warden nor was a copy served upon the Nevada Attorney General. Such technical defects are not jurisdictional and may be cured by amendment. See Miles v. State, 120 Nev. 383, 385-86,

1 91 P.3d 588, 589 (2004). Accordingly, Mr. Clarke is granted leave to amend his petition to
2 conform with the procedural requirements contained in NRS Chapter 34. Mr. Clarke is
3 directed to file his amended petition within 60 days of this order.

4 **IT IS SO ORDERED.**

5 Dated: July 13, 2021.

6 
7 District Court Judge

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13 day of July, 2021, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the _____ day of July, 2021, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:


Sheila Mansfield
Judicial Assistant

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-07-13 11:39:59.307.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-07-13 11:40:00.968.
TRACIE LINDEMAN, ESQ - Notification received on 2021-07-13 11:39:59.678.
LORENA VALENCIA, PD - Notification received on 2021-07-13 11:40:00.567.
DIV. OF PAROLE & PROBATION - Notification received on 2021-07-13 11:39:59.552.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-13-2021:11:38:47

Clerk Accepted:

07-13-2021:11:39:23

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Ord Denying

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

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CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 **CODE 2540**

2
3
4
5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF WASHOE**

7
8 **STATE OF NEVADA,**

9 **Plaintiff,**

Case No: CR19-1352

10 **vs.**

Dept. No: 15

11
12 **ANTHONY CLARKE,**

13 **Defendant.**

14 _____ /
15 **NOTICE OF ENTRY OF ORDER**

16
17 PLEASE TAKE NOTICE that on July 13, 2021, the Court entered a decision or
18 order in this matter, a true and correct copy of which is attached hereto.

19 Dated July 13, 2021.

20
21 _____
22 **ALICIA LERUD**

Clerk of the Court

23 _____
24 **/s/JBYE**

J. BYE-Deputy Clerk

CERTIFICATE OF SERVICE

Case No. CR19-1352

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court; that on July 13, 2021, I electronically filed the Notice of Entry of Order with the Court System which will send a notice of electronic filing to the following:

TRACIE K LINDEMAN, ESQ for ANTHONY CLARKE
MARIAH NORTHINGTON, ESQ. for STATE OF NEVADA
JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA DIV. OF PAROLE & PROBATION
LORENA VALENCIA, PD for ANTHONY CLARKE

I further certify that on July 13, 2021, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

Attorney General's Office
100 N. Carson Street
Carson City, NV 89701-4717

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding document does not contain the personal information of any person.

Dated July 13, 2021.

/s/JBYE

J. BYE- Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANTHONY CLARKE,

Petitioner,

vs.

Case No. CR19-1352

Dept. No. 15

STATE OF NEVADA,

Respondent.

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

Before this Court is Petitioner Anthony Clarke's unsubmitted Petition for Writ of Habeas Corpus filed on June 18, 2021. Mr. Clarke was sentenced on November 25, 2019, to a minimum term of 28 months to a maximum term of 96 months, with 136 days credit for time served for a violation of NRS 205.060, a category B felony. Mr. Clarke pled guilty and represented himself at sentencing. The Nevada Court of Appeals affirmed Mr. Clarke's sentence on June 4, 2021.

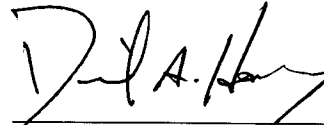
NRS 34.730(2) requires a petition to name as a respondent the officer by whom the petitioner is confined or restrained and be served by mail upon that person, and a copy of the petition must also be served upon the Nevada Attorney General.

Upon review of Mr. Clarke's petition, this Court concludes it does not comply with the requirements set forth in NRS 34.730. Specifically, the Certificate of Service does not indicate it has been served upon the Northern Nevada Correctional Center warden nor was a copy served upon the Nevada Attorney General. Such technical defects are not jurisdictional and may be cured by amendment. See Miles v. State, 120 Nev. 383, 385-86,

1 91 P.3d 588, 589 (2004). Accordingly, Mr. Clarke is granted leave to amend his petition to
2 conform with the procedural requirements contained in NRS Chapter 34. Mr. Clarke is
3 directed to file his amended petition within 60 days of this order.

4 **IT IS SO ORDERED.**

5 Dated: July 13, 2021.

6 
7 District Court Judge

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13 day of July, 2021, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Anthony Clarke, #1192204
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the _____ day of July, 2021, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:


Sheila Mansfield
Judicial Assistant

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2021-07-13 12:50:03.548.
MARIAH NORTHINGTON, ESQ. - Notification received on 2021-07-13 12:50:03.717.
TRACIE LINDEMAN, ESQ - Notification received on 2021-07-13 12:50:03.619.
LORENA VALENCIA, PD - Notification received on 2021-07-13 12:50:03.679.
DIV. OF PAROLE & PROBATION - Notification received on 2021-07-13 12:50:03.583.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR19-1352

Judge:

HONORABLE DAVID A. HARDY

Official File Stamp:

07-13-2021:12:48:54

Clerk Accepted:

07-13-2021:12:49:33

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. ANTHONY CLARKE (D15)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Deputy Clerk JBye

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TRACIE K LINDEMAN, ESQ for ANTHONY
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY
CLARKE

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