

## IN THE SUPREME COURT OF THE STATE OF NEVADA

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LCC,

JAMES DZURENDA, DIRECTOR NDOC,

Respondent.

FILED

AUG 01 2023

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

## PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner, Dustin Barral, in prose, and respectfully moves this Honorable Court to issue a Petition for Writ of Mandamus, being filed contemporaneously herewith, directing The NDOC and LCC Warden Tim Garrett to follow AR and OP 740 (Offender Grievance Procedure) and answer grievances in the time specified to protect inmates and their issues.

This motion is made and based pursuant to the supporting Points and Authorities attached hereto, NRS 34.150 - 34.310, NRAP Rule 21 as well as all papers, pleadings and documents on file herein.

## POINTS AND AUTHORITIES

## STATEMENT OF FACTS

Upon entering the NDOC, every inmate is told/given papers explaining the grievance procedure. The grievance procedure is the way inmates get issues and problems resolved while incarcerated. There are no other protections afforded to inmates. Upon exhausting the grievance procedure then the inmate can sue/take the NDOC to court over the issue. The NDOC has 45 days to answer an Informal Grievance, 45 days to answer a 1<sup>st</sup> level Grievance and 60 days to answer a 2<sup>nd</sup> level Grievance. The Informal and 1<sup>st</sup> level grievances are answered by the prison the inmate is housed at and the 2<sup>nd</sup> level is answered by Deputy Directors of the NDOC.

On July 13, 2023 at about 2:40pm in unit 1A at Lovelock Correctional Center (LCC)

23-24605

1 Associate Warden (AWP) LeGrand gave a Town Hall. In this town hall  
2 meeting she informed the inmates of various issues. One of the issues was/is  
3 overdue grievances. She informed the inmates that those who are waiting  
4 to hear a response on an overdue grievance to move on to the next level.  
5 And once you reached your time limit on that to go to the last level. That  
6 on each grievance to restate your issues because if it wasn't responded to on  
7 the lower level then they wouldn't know what your issue is.

8 The words of AWP LeGrand leave no doubt that LCC and the NDOC  
9 are not answering inmate grievances and have no plan to do so. The inmate  
10 grievance procedure is the only protection inmates have to deal with issues  
11 in prison. To take legal action we must exhaust the grievance procedure  
12 otherwise any action will be dismissed. If the prisons/NDOC do not  
13 respond to inmate grievances and force the inmates to keep going up the  
14 procedure with no response, it shows deliberate indifference to the plight  
15 of an inmate. By not answering inmate's grievances in the time prescribed  
16 by AR and OP 740, an inmates concerns/problems are ignored or forced to  
17 litigation for years. Ignoring the concerns and problems of the inmates of  
18 the NDOC (NV Dept. of Corrections) is a violation of the 8<sup>th</sup> Amendment of the  
19 US Constitution - cruel and unusual punishment. It's cruel to let inmates suffer  
20 just because the NDOC is too busy to take the time to answer a grievance.

## 21 LEGAL ARGUMENT

22 Petitions for Extraordinary Writs are addressed to the sound discretion of the  
23 Supreme Court of Nevada and may issue when there is no plain, speedy, and  
24 adequate remedy at law. State v. Second Judicial District Court ex rel. County of  
25 Washoe, 11 P.3d 1209 (2000). A writ of mandamus is issued to compel performance  
26 of an act which the law especially enjoins as a duty resulting from an office,  
27 trust or station. Lewis v. Stewart, 619 P.2d 1212, 96 Nev. 846 (1980). This Court  
28 has also held that the action being sought to be compelled must be one

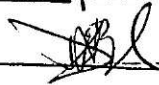
1 already required by law. Mineral County v. State, Department of Conservation and  
2 Natural Resources, 20 P.3d 800 (2001).

### 3 CONCLUSION

4 It is clear that the NDOC and LCC are failing to act per the office  
5 and station enabled to them. They have a duty to act, a duty to protect  
6 the interests of inmates. For the above reasons the Petitioner respectfully  
7 requests this Court to Order the NDOC and LCC Warden Tim Garrett to  
8 answer all overdue grievances within a reasonable amount of time as  
9 required by NRS 34.830 and to answer all new grievances within the  
10 required time frame (45 days, 45 days, or 60 days) from now on.

11 Also the Petitioner asks this Court to protect him from retaliation from  
12 the NDOC/LCC, Order the NDOC/LCC to not perform random cell searches  
13 on him, no random bed moves for him or his cellie, no random institutional  
14 moves, and no messing with his parole as he is getting out.

15 Dated this 26 day of July, 2023

16   
17 Dushin Barral #1108615

18 LCC

19 1200 Prison Rd.

20 Lovelock, NV 89419

21 Petitioner in Pro Se

### 22 AFFIRMATION PURSUANT TO NRS 239B.03d

23 The undersigned does affirm that the preceding Writ of Mandamus does  
24 not contain the social security number of any person.

25   
26 Dushin Barral

27 Petitioner in Pro Se

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing WRIT OF HABEAS CORPUS to the following address(es) on this 26 day of July, 2023, by placing same in the US mail via law library pursuant to NRCP 5(b):

Warden Tim Garrett NV Attorney General  
LCC 100 N. Carson St  
1200 Prison Rd Carson City, NV 89701  
Lovelock, NV 89419

Director James Dzurenda  
NDOC  
5500 Snyder Ave  
Carson City, NV 89701

Dated this 26 day of July, 2023

  
Dustin Barra #1108615  
LCC  
1200 Prison Rd  
Lovelock, NV 89419  
Petitioner in Pro Se