

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA SEP 08 2023

Dustin Barreal
Appellant,
vs.
Tim Garrett, Warden LCC
Respondent.

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY Michelle Williams
DEPUTY CLERK

Supreme Court No. 87139

District Court No. 27CV-WRI-2023-0059

APPELLANT'S INFORMAL BRIEF

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

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

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

To file your brief in person: Briefs may be submitted for filing Monday through Friday, 9:00 a.m. to 4:00 p.m.

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

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

23-29434

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

Filed Date	Name of Judgment or Order
8/3/23	Order Denying Petition for Writ of Habeas Corpus and Supplemental Brief to Petition for Writ of Habeas Corpus

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 8/9/23

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

Case No.	Case Title	Name of Court

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

☒ Yes ☐ No

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

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

On Sept 18, 2018 Mr. Barral was sentenced pursuant to an Alford plea to a sentence of 10 yrs 4 mos - 26 yrs. On Feb 21, 2023 Mr. Barral filed his Petition for Writ of Habeas Corpus (Computation of Time). On March 28, 2023 Mr. Barral filed his Supplemental Brief to Petition for Writ of Habeas Corpus (Computation of Time). The State of Nevada - AG filed its opposition and Mr. Barral filed a response to the opposition. On August 3, 2023 the District Court entered a judgment denying Mr. Barral's Petition.

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

The District Court relied on Warden Tim Garrett and the Nevada AG's argument in its opposition and *Burt v. Warden*, 238 P. 3d 799 (2008) to make its decision.

The Appellant in his response to the opposition plainly proves that a credit earned by an offender in the Nevada Dept. of Corrections (NDOC) does not equal a day. In *Burt v. Warden* the court argued that the appellants time logs audit verify that the appellants credits have not been reduced by any mathematical formula and that there is no proof for the statement that one credit is anything less than a 24-hour day. If the court would look at pg 3 of the Appellant's response to the opposition, there are three tables that the Appellant came up with from the AG's time audit log from its Exhibit E in its response. In

each of these tables, the Appellant, calculated how many credits per day there were. Without earning any extra credit, 605 credits are reduced from the Appellant's yearly total. 605 credits divided by 365 days equals 1.657 credits per 24 hour day.

Whether or not the NDOC uses a mathematical formula, there is proof that 1 credit does not equal a 24 hour day. The court in *Burt v. Warren* was wrong. The Appellant used his time audit log that the AG presented in their response/exhibits as proof of his calculation. The NDOC is not giving adequate time to the appellant for every credit he has earned.

Respectfully he asks this court to review his calculations and order the NDOC to give him the 330 days/credits that is owed to him for providing him 1.657 credits per day.

Lined area for text entry.

DATED this 5 day of September, 2023.


Signature of Appellant

Dustin Barzal
Print Name of Appellant

CERTIFICATE OF SERVICE


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

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

Warden Tim Garrett
LCC
1200 Prison Rd
Lovelock, NV 89419

NV Attorney General
100 N. Carson St
Carson City, NV 89701

DATED this 5 day of September, 2023



Signature of Appellant

Dushn Barral #1108615

Print Name of Appellant

LCC

Address

1200 prison Rd

Address

Lovelock, NV 89419

City/State/Zip

N/A

Telephone