

Case No. 27CV-WR1-2023-0230

Supreme Court Case No. 88053

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

Electronically Filed
Mar 04 2024 11:31 AM
Elizabeth A. Brown
Clerk of Supreme Court

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN JAMES BARRAL,

Appellant,

vs.

TIM GARRETT, WARDEN LCC; AND THE
STATE OF NEVADA

Respondents.

RECORD ON APPEAL

PLEADINGS

VOLUME 1

Dustin James Barral
1661 E. 6th St. 254
Reno, NV, 89512
Appellant, In Pro Per

Elsa Felgar
Nevada Attorney Generals' Office
100 N. Carson St.
Carson City, NV 89701
Attorney for Respondents

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1 Case No.

2 Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain
3 the social security number of any person.

4

5 IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF PERSHING

7

8 DUSTIN BARRAL,

9 Plaintiff,

10 vs.

11 TIM GARRETT, WARDEN LCC,

12 Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

(Computation of Time)

13 COMES NOW, Plaintiff, Dustin Barral, in pro se, brings before this Court his
14 Petition for Writ of Habeas Corpus (Computation of Time).

15 PETITION

16 1. Name of institution and county in which you are presently imprisoned or where
17 and how are you presently restrained of your liberty: Lovelock Correctional
18 Center, Pershing County, Nevada

19 2. Name and location of court which entered the judgment of conviction under
20 which you are presently imprisoned: 8th Judicial District Court, Clark County, Nevada

21 3. Date of judgment of conviction: September 18, 2017

22 4. Case number: C269095-1

23 5. Length of sentence: Count 1 - 96 months to 240 months, Count 2 - 28 months to 72
24 months, sentences aggregated for 124 months to 312 months

25 6. Nature of offense involved in conviction: Count 1 - Attempt. Sexual Assault under 16,
26 Count 2 - Child Abuse, Neglect or Endangerment

27 7. Have you previously presented to any court any claim(s) concerning the computation of
28 time issue which you are presently within this petition? Yes _____ No ☒

8. State concisely every ground on which you challenge the computation of time that you have served. Summarize briefly the facts supporting each ground.

(2) Ground One: The NDOC/LCC refuse to give the Plaintiff credit he earned by receiving his Associate in Pastoral Ministry from the International Christian College and Seminary as required by NRS 209.4465(3).

SUPPORTING FACTS: While incarcerated in the NDOC at LCC, I enrolled in a correspondence college - The International Christian College and Seminary (ICCS). Where I earned my Associate in Pastoral Ministry. I had the transcripts sent to the (then) principal Mr. Gallagher as is required to be put in for credit. On 3/28/23 the transcripts were returned to me. I kiled Mr. Gallagher asking why and he said he would have to email Carson City. On 4/1 he let me know that Carson City said ICCS did not qualify for credits per AR 803.01 and NRS 209.4465(3).

The NDOC/LCC is breaking the law (NRS 209.4465) in AR 803.01 by requiring an institution be approved the US Department of Education. NRS 209.4465(3) states "The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender." There is no mention or requirement for the degree to come from an institution approved or accredited by the US Department of Education. AR 803.01 says that "Educational Degree Credits will be awarded per the requirements of NRS 209.433-209.4465." The NDOC/LCC is in clear violation of NRS 209.4465(3) by adding requirements to a NRS. The NDOC/LCC is not a legislative body and as such cannot impliment an AR (Administrative Regulation) that exceeds the law of the State of Nevada. By doing so, AR 803 becomes unconstitutional. NRS 209.4465 does not place any accreditation restrictions on earning a degree and neither should the NDOC/LCC.

On 4/8/23 I started the grievance procedure. The grievance # is

20063151082. The informal grievance was filed on 4/8/23, 1st level grievance was

1 filed on 5/3/23 and the 2nd level was filed on 6/21/23. The NDOC is in possession
2 of these documents as the plaintiff waits for a response. Also it should be noted
3 that on 7/13/23 in a Town Hall meeting, AWP LeGrant admitted that the NDOC/
4 LCC is overdue in responding to grievances. That instead of waiting for a response
5 to go to the next level because it would be a "long time" before a response was
6 given. Indicating to the Plaintiff that the NDOC/LCC is refusing to abide by its
7 own AR/OP's in answering inmates grievances.

8 The Plaintiff is asking this Court to force the NDOC/LCC to approve his
9 90 day credit award for his Associate in Pastoral Ministry and 60 day credit for
10 Exceptional G.P.A. Also the Plaintiff is asking this Court to order the NDOC/LCC
11 into changing their AR and OP's to conform with the laws of the State of Nevada
12 so that future inmates can earn credit for bible college degrees.

13 WHEREFORE, petitioner prays that the court grant the petitioner relief to
14 which he may be entitled in the proceeding.

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16 Executed on 16 day of August, 2023

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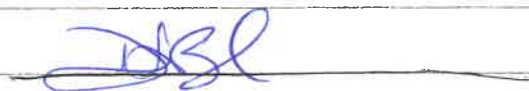
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Dushin Barral #1108615

LCC

1200 Prison Rd

Lovelock, NV 89419

Plaintiff/Petitioner in Pro Se

CERTIFICATE OF SERVICE

I certify that I mailed a true and correct copy of the foregoing PETITION
FOR WRIT OF HABEAS CORPUS on 16 day of August, 2023,
to the following address(es) pursuant to NRCP 5(b):

Warden Tim Garrett

NV Attorney General

LCC

100 N. Carson St

1200 Prison Rd

Carson City, NV 89701

Carson City, NV 89419

Dated this 16 day of August, 2023



Dustin Barral # 1108615

LCC

1200 Prison Rd

Carson City, NV 89419

Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

ORDER TO RESPOND

WHEREAS Plaintiff, Dustin Barral, a Nevada prisoner, representing himself as a pro se litigant, has filed a Petition for Writ of Habeas Corpus (Computation of Time) on August 22, 2023, in the Eleventh Judicial District Court, and

The Court has reviewed the petition and has determined that a response would assist the Court in determining whether the petitioner is illegally imprisoned and restrained of his liberty. Respondent shall, within 45 days after the date of this order, answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS 34.360 to 34.380, inclusive.

As a real party in interest, the Attorney General's Office shall be authorized to file a Response in this matter.

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order to Respond

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs

TIM GARRETT, WARDEN LCC,

Respondent.

AFFIDAVIT OF MAILING

I, Adriana Ramos , being first duly sworn depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that I am a Deputy Court Clerk of the 11th Judicial District Court and that I caused to be served, a copy of ORDER TO RESPOND that was served electronically, in compliance with the Eleventh Judicial District Court's electronic filing system or enclosed in a sealed envelope with first class prepaid postage, addressed to:

Dustin Barral #1108615
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

DATED this 25TH day of August 2023.

KATE MARTIN
CLERK OF THE COURT
By: Adriana Ramos

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LLC,

Respondent.

AFFIDAVIT OF MAILING

I, Susan L. Bame, being first duly sworn, depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interest in, the within action; that I am a Legal Assistant of the 11th Judicial District Court and that I caused to be served, a copy of the ORDER TO RESPOND, PETITION FOR WRIT OF HABEAS CORPUS by U.S. Postal Service, by enclosing in a sealed envelope with first class prepaid postage, addressed to:

Heather D. Proctor
Chief Deputy Attorney General
Post-Conviction Division
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

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Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**ORDER TO SHOW CAUSE FOR
DISMISSAL**

This matter comes before this Court on Plaintiff, Dustin Barral's Petition for Writ of Habeas Corpus (Computation of Time) filed on August 21, 2023.

IT IS HEREBY ORDERED that Plaintiff shall appear for a Show Cause Hearing on **September 25, 2023, at 2:30 PM** to show cause as to why this case should not be dismissed as duplicative of his first *pro se* petition in case no. 27CV-WR1-2023-0059 was denied by this Court on August 3, 2023. Further, inasmuch as the instant case is for also a Petition for Writ of Habeas Corpus (Computation of Time) any new or different grounds that may be alleged in the instant case and not addressed in the prior writ constitutes an abuse of the writ. *See* NRS 34.810(2).

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order - Show Cause

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Plaintiff,

vs

TIM GARRETT, WARDEN LCC,

Defendant.

AFFIDAVIT OF MAILING

I, Adriana Ramos , being first duly sworn depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that I am a Deputy Court Clerk of the 11th Judicial District Court and that I caused to be served, a copy of ORDER TO SHOW CAUSE FOR DISMISSAL that was served electronically, in compliance with the Eleventh Judicial District Court's electronic filing system or enclosed in a sealed envelope with first class prepaid postage, addressed to:

Dustin Barral #1108615
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

DATED this 30TH day of August 2023.

KATE MARTIN
CLERK OF THE COURT
By: Adriana Ramos

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**ORDER TO
PRODUCE/TRANSPORT
PRISONER**

TO: TIM GARRETT, Warden, Lovelock Correctional Center

THE COURT HEREBY FINDS that Plaintiff is presently in the custody of the Nevada Department of Corrections.

IT IS HEREBY ORDERED that the Warden or his designee shall transport Dustin Barral (#1108615) to the Pershing County Courthouse on **September 25, 2023, at 2:30 PM** for Order to Show Cause for Dismissal *and arrange for his/her appearance on all subsequent court dates related to this matter*, as relayed by the Court, or counsel in this matter.

Alternatively, Warden or his designee shall file a Request to Produce via telephonic appearance on September 25, 2023, at 2:30 PM for Order to Show Cause for Dismissal *and*

1 *arrange for his telephonic appearance on all subsequent court dates related to this matter,*
2 *with the exception of trial dates and any other hearings as provided for by the Court, as*
3 *relayed by the Court, or counsel in this matter.*

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL, Petitioner, vs TIM GARRETT, WARDEN LLC, Defendant.	AFFIDAVIT OF MAILING
---	-----------------------------

I, Kimberly Torres, being first duly sworn depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that I am a Deputy Court Clerk of the 11th Judicial District Court and that I caused to be served, a copy of ORDER TO PRODUCE/TRANSPORT PRISONER that was served electronically, in compliance with the Eleventh Judicial District Court's electronic filing system, or enclosed in a sealed envelope with first class prepaid postage, addressed to:

Dustin Barral #1108615
1200 Prison Road
Lovelock Correctional Center
Lovelock, Nv 89419
Traditional Mail

DATED this 31 day of August 2023.

KATE MARTIN
CLERK OF THE COURT

By: kimberly torres
Deputy Court Clerk

Case No. 27CV-WR1-2023-0230

*Pursuant to NRS 229B.030, the undersigned affirms
That this document does not contain social security numbers.*

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**NOTICE OF APPEARANCE FOR
RESPONDENTS**

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 Deputy Attorney General ELSA FELGAR 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.

RESPECTFULLY SUBMITTED this 12th day of September, 2023.

AARON D. FORD
Attorney General

By: /s/ Elsa Felgar
ELSA FELGAR (Bar No. 16076)
Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1115
(775) 684-1108
efelgar@ag.nv.gov

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General and that on this 12th day of
3 September, 2023, I caused to be deposited for mailing a true and correct copy of the foregoing,

4 **NOTICE OF APPEARANCE FOR RESPONDENTS**, to the following:

5 Dustin Barral # #1108615
6 Lovelock Correctional Center
7 1200 Prison Road
8 Lovelock, NV 89419

9 /s/ Amanda White

1 Case No. 27CV-WR1-2023-0230

2 Pursuant to NRS 239B.030, the undersigned affirms that this document does not
3 contain the social security number of any individual.

4

5 IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF PERSHING,

7

8 Dustin Barzal,

9 Plaintiff,

10 vs.

11 Tim Garrett, Warden LCC,

12 Respondent.

INDEX OF EXHIBITS IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS (COMPUTATION
OF TIME)

13 Comes Now, Plaintiff, Dustin Barzal, in prose, bring forth his Index of Exhibits in
14 Support of Petition for Writ of Habeas Corpus (Computation of Time) which is relevant in
15 above mentioned case.

16

17 No.	Description	Pg
18 1	Complete Grievance # 20063151082	1

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20 Dated this 7 day of September, 2023

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Dustin Barzal #1108615
LCC
1200 Prison Rd
Lovelock, NV 89419
Plaintiff in Pro Se

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing INDEX OF EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (COMPUTATION OF TIME) on this 7 date of September, 2023, by placing the same in the US Mail via prison law library staff pursuant to NRCF 5(b):

Warden Tim Garrett
LCC
1200 Prison Rd
Lovelock, NV 89419

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

Dated this 7 day of September, 2023.



Dustin Barcal # 1108615
LCC
1200 Prison Rd
Lovelock, NV 89419
Plaintiff in Pro Se

EXHIBIT 1

EXHIBIT 1

#001

LCC



State of Nevada
Department of Corrections

INMATE GRIEVANCE REPORT

1A-15B

ISSUE ID# 20063151082

ISSUE DATE: 04/10/2023

ISSUE LOC: LCC

INMATE NAME	NDOC ID	CURR LOC	TRANS TYPE	GR CODE	ASSIGNED TO
BARRAL, DUSTIN JAMES	1108615	LCC	RTRN_L2	POL	KWIDMAR
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
2	08/22/2023		Denied	SCANTLEY	INACTIVE

INMATE COMPLAINT

OFFICIAL RESPONSE

Offender Barral, I am in receipt of your second level grievance 20063151082 which you state that you were denied merit credit for completion of an associate degree, and state this is in violation of NRS 209.4465(3) and Administrative Regulation 803.01. In review of your grievance, you have been correctly responded to at previous levels. NRS.4465(3) states, The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender. AR 803.01.1.A, Educational Degree Credits will be awarded per the requirements of Nevada Revises Statutes (NRS) 209.433-209.4465. Credit for each additional higher educational degree is at the Director's discretion. If granted, a maximum of 90 credits will be awarded. Both the NRS and AR clearly identify that the Director has discretion when applying these credits, for consistency this discretion extends to accredited colleges and universities. The International Christian College and Seminary is not an accredited college, thus you are not eligible to earn any merit credit for completion of this degree. Grievance Denied.

GRIEVANCE RESPONDER

Report Name: NVRIGR

Run Date: AUG-22-23 04:27 PM

Page 1 of 1

LOG NUMBER: 2006-31-51082

NEVADA DEPARTMENT OF CORRECTIONS
SECOND LEVEL GRIEVANCE

NAME: Dustin Barral I.D. NUMBER: 1108615

INSTITUTION: LCC UNIT: 1A15B

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER 20063151082, ON THE SECOND LEVEL. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: [Signature] DATE: 6/21/23

WHY DISAGREE: In denying both my Informal and 1st level grievances, LCC and the NDOC are violating the NRS 209.4465(3) the law of the State of Nevada. NRS 209.4465(3) supercedes any AR and OP implemented by the NDOC and LCC. LCC is denying my grievance based on an AR that exceeds NRS 209.4465(3). NRS 209.4465(3) does not have any

GRIEVANCE COORDINATOR SIGNATURE: J. Chandra DATE: 6-22-2023

SECOND LEVEL RESPONSE: _____

____ GRIEVANCE UPHOLD ☒ GRIEVANCE DENIED _____ ISSUE NOT GRIEVABLE PER AR 740

SIGNATURE: [Signature] TITLE: Chief DATE: 8/22/23

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 8/30/23

INMATE SIGNATURE: [Signature] DATE: 8/31/23

THIS ENDS THE FORMAL GRIEVANCE PROCESS

Original: To inmate when complete, or attached to formal grievance
Canary: To Grievance Coordinator
Pink: Inmate's receipt when formal grievance filed
Gold: Inmate's initial receipt

RECEIVED

JUN 22 2023

LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

DOC 3094 (12/04)⁰²⁴

**NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM**

NAME: Dustin Barral I.D. NUMBER: 1108615

INSTITUTION: LCC UNIT #: 1A15B

GRIEVANCE #: 20063151082 GRIEVANCE LEVEL: 2nd Level

GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 2

restrictions on what colleges can earn credit for an Associate degree. All NRS 209.4465(3) requires is that an inmate earns the degree. As such, AR ~~803~~ 803.01 cannot put additional limitations to a state law. This very act is a violation of my rights. By denying both informal and 1st level grievances the NDOC/LCC is saying that they do not have to follow the laws of the State of Nevada. That an AR supercedes an NRS. This belief is false and wrong. NRS 209.4465(3) is paramount law in this situation. AR 803.01 must conform to it. Merit credit was earned and must be given.

Remedies:

Same as in Informal and 1st level grievances

Original: Attached to Grievance
Pink: Inmate's Copy

RECEIVED

JUN 22 2023

LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES
DOC - 3097 (01/02)
025



State of Nevada
Department of Corrections

INMATE GRIEVANCE REPORT

1A-15B

ISSUE ID# 20063151082

ISSUE DATE: 04/10/2023

ISSUE LOC: LCC

INMATE NAME		NDOC ID	CURR LOC	TRANS TYPE	GR CODE	ASSIGNED TO
BARRAL, DUSTIN JAMES		1108615	LCC	RTRN_L1	POL	TGARRETT
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING		USER ID	STATUS
1	06/13/2023	5	Denied		JACHANDLER	A

INMATE COMPLAINT

OFFICIAL RESPONSE

Offender Barral, Dustin #1108615,
I am receipt of your First Level Grievance 2006-31-51082 as it relates to you being denied merit credit for completing an associate degree from ICCS. You continue to claim that this is a direct violation of NRS 209.4465(3). You state that the NDOC/LCC must follow NRS 209.4465 (3) as it states it does in AR 803.01. Your remedies are the same as stated at the Informal Grievance. You were answered correctly as the previous level. Per AR 850.01 (1)B ?All college and university programs will be accredited by the Northwest Association of Schools and Colleges and Universities.? ICCS is not a member is not a member of the Northwest Association of Schools and Colleges and Universities, therefore, it is not recognized by the NDOC Department of Education to be eligible for any type of merit credit.
Your grievance is denied in its entirety, and you will not be receiving any merit credit for completing an associate?s degree in Pastoral Ministry through ICCS.

GRIEVANCE RESPONDER

RECEIVED

Report Name: NVRIGR

Run Date: JUN-13-23 11:36 AM

Page 1 of 1
JUN 22 2023

LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

026

NEVADA DEPARTMENT OF CORRECTIONS
FIRST LEVEL GRIEVANCENAME: Dustin Barral I.D. NUMBER: 1108615
INSTITUTION: LCC UNIT: 1A15BI REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER 20063151082, IN A FORMAL MANNER. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: [Signature] DATE: 5/3/23WHY DISAGREE: NRS 209.4465(3) does not state that any institutions from which degrees are earned need to be approved through the US Department of Education. The NDOC/LCC by placing this requirement for college degrees is violating Nevada law. Nevada law - NRS 209.4465(3) only states that the degree must be from higher education. There is noGRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 5-4-2023

FIRST LEVEL RESPONSE: _____

See attached☒ GRIEVANCE UPHELD ☐ GRIEVANCE DENIED ☐ ISSUE NOT GRIEVABLE PER AR 740
WARDEN'S SIGNATURE: [Signature] TITLE: Warden DATE: 6/14/23
GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 6/12/23☐ INMATE AGREES ☒ INMATE DISAGREES
INMATE SIGNATURE: [Signature] DATE: 6/20/23

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A SECOND LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

Original: To inmate when complete, or attached to formal grievance
Canary: To Grievance Coordinator
Pink: Inmate's receipt when formal grievance filed
Gold: Inmate's initial receipt

RECEIVED

JUN 22 2023

MAY 04 2023

LOVELOCK CORRECTIONAL
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CENTER - GRIEVANCES

DOC 3093 (12/01)027

Log Number 2023-0000

NEVADA DEPARTMENT OF CORRECTIONS
FIRST LEVEL GRIEVANCE

NAME: Dustin B. Burt I.D. NUMBER: 1108115

INSTITUTION: LCC UNIT: 1A15B

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER 2023-0000, IN A FORMAL MANNER. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: [Signature] DATE: 5/13/23

WHY DISAGREE: NRS 201.445(3) was not followed

because we could not have any more money in the account

because the money was not used for the account

because the money was not used for the account

because the money was not used for the account

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 5/13/23

FIRST LEVEL RESPONSE: [Signature]

 GRIEVANCE UPHELD X GRIEVANCE DENIED ISSUE NOT GRIEVABLE PER AR 740

WARDEN'S SIGNATURE: [Signature] TITLE: [Title] DATE: 5/13/23

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 5/13/23

 INMATE AGREES X INMATE DISAGREES

INMATE SIGNATURE: [Signature] DATE: 5/13/23

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A SECOND LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

Original: To inmate when complete, or attached to formal grievance
Canary: To Grievance Coordinator
Pink: Inmate's receipt when formal grievance filed
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DOC 3093 (12/01)

NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Dustin Barreal I.D. NUMBER: 1106615

INSTITUTION: LCC UNIT #: 1A15B

GRIEVANCE #: 20063151062 GRIEVANCE LEVEL: 1st Level

GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 2

additional requirement listed in the NRS - the law of the State of Nevada. The NDOC/LCC in placing more restrictions than required by the NRS are violating my rights to earn the credit I'm due. The NDOC/LCC must follow NRS 209.4465(3) as it states it does in ARS 03.01. The NDOC/LCC must follow the law as it is written, not how they want it to be written. NDOC AR's do not supercede Nevada Law - the NRS's.

Remedies

Same as in informal grievance

Original:
Pink:

Attached to Grievance
Inmate's Copy

RECEIVED

JUN 22 2023

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MAY 04 2023

LOVELOCK CORRECTIONAL
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DOC - 3097 (01/02)

029



State of Nevada
Department of Corrections

INMATE GRIEVANCE REPORT

1A-1515

ISSUE ID# 20063151082

ISSUE DATE: 04/10/2023

ISSUE LOC: LCC

INMATE NAME		NDOC ID	CURR LOC	TRANS TYPE	GR CODE	ASSIGNED TO
BARRAL, DUSTIN JAMES		1108615	LCC	RTRN_INF	POL	GWATERS
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING		USER ID	STATUS
IF	05/01/2023	4	Denied		JACHANDLER	A

INMATE COMPLAINT

OFFICIAL RESPONSE

Offender Barral, Dustin #1108615,

I am receipt of your Informal Grievance 2006-31-51082 as it relates to you being denied merit credit for completing an associate degree from ICCS. You claim that this is a direct violation of NRS 209.4465(3). You further state that ICCS is a Christian Correspondence College that is accredited through the ITAA. Your remedy is for no retaliation for filing of this grievance, no bed moves for you or your cellie, no targeted cell searches, no firing from your job, no institutional moves, to receive 90 days of credit as well as submitted for Exceptional GPA for this degree and update all AR/OP?s to follow the NRS?s and not add additional requirements not found in the NRS?s.

This issue was discussed with Coal Canyon High School Principal Gallagher and the NDOC Education Services. Currently the International Christian College and Seminary (ICCS) is not an approved school through the US Department of Education, therefore it is not recognized by the NDOC Department of Education to be eligible for any merit credit.

Your grievance is denied in its entirety, and you will not be receiving any merit credit for completing an associates degree in Pastoral Ministry through ICCS.


GRIEVANCE RESPONDER

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Report Name: NVRIGR

Run Date: MAY-01-23 02:36 PM

JUN 22 2023

MAY 24 2023

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Log Number 2006-31-51082

NEVADA DEPARTMENT OF CORRECTIONS
INFORMAL GRIEVANCE

NAME: Dustin Barral I.D. NUMBER: 1108615

INSTITUTION: LCC UNIT: 1A15B

GRIEVANT'S STATEMENT: On 3/28 I received an interoffice envelope from Education with my unopened transcripts from TCCS in them. On 3/29 I called Mr. Gallagher and on 3/30 was informed Carson City needed to be emailed about it. On 4/3 I asked him to email them for qualification of days/credit. On 4/5 he emailed them and on 4/7 Carson City said my Associate degree from TCCS does not qualify for days/credit. This is in direct

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: [Signature] DATE: 4/8/23 TIME: 3:00pm

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 4/10/23 TIME: 11:15AM

GRIEVANCE RESPONSE: _____

See attached

CASEWORKER SIGNATURE: [Signature], CCST DATE: 4/24/2023

___ GRIEVANCE UPHELD ☒ GRIEVANCE DENIED ___ ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: [Signature] DATE: 4/20/23

___ INMATE AGREES [Signature] INMATE DISAGREES

INMATE SIGNATURE: [Signature] DATE: 3/2/23

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FIRST LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

RECEIVED

RECEIVED

Original: To inmate when complete, or attached to formal grievance
Canary: To Grievance Coordinator
Pink: Inmate's receipt when formal grievance filed
Gold: Inmate's initial receipt

MAY 04 2023

APR 10 2023

JUN 22 2023

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LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

Log Number

NEVADA DEPARTMENT OF CORRECTIONS
INFORMAL GRIEVANCE

NAME: Dustin Barrios I.D. NUMBER: 118615

INSTITUTION: LCC UNIT: 1015R

GRIEVANT'S STATEMENT: In 3/15/23, I was in the kitchen and I saw a guard

who was talking to a prisoner. I was in the kitchen and I saw a guard

who was talking to a prisoner. I was in the kitchen and I saw a guard

who was talking to a prisoner. I was in the kitchen and I saw a guard

who was talking to a prisoner. I was in the kitchen and I saw a guard

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: [Signature] DATE: 4/8/23 TIME: 3:00pm

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 4/10/23 TIME: 1:15pm

GRIEVANCE RESPONSE: _____

CASEWORKER SIGNATURE: [Signature] DATE: 4/11/23

___ GRIEVANCE UPHELD ☒ GRIEVANCE DENIED ___ ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: [Signature] DATE: 5/1/23

___ INMATE AGREES ☒ INMATE DISAGREES

INMATE SIGNATURE: [Signature] DATE: 5/1/23

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FIRST LEVEL GRIEVANCE MAY
BE PURSUED IN THE EVENT THE INMATE DISAGREES.

RECEIVED

Original: To inmate when complete, or attached to formal grievance

Canary: To Grievance Coordinator

Pink: Inmate's receipt when formal grievance filed

Gold: Inmate's initial receipt

JUN 22 2023

MAY 04 2023

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DOC 3091 (12 / 01)
032

**NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM**

NAME: Dustin Barrel I.D. NUMBER: 1108615
INSTITUTION: LCC UNIT #: 1A15B
GRIEVANCE #: 2006-31-51082 GRIEVANCE LEVEL: Informal
GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 3

violation of NRS 209.4465(3).

NRS 209.4465(3) states "The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender." This means that for any degree of higher education the inmate can earn days. There are no stipulations or requirements in NRS 209.4465(3) as the NDOC is trying to put on myself. The stipulations are found in AR 803. AR 803.01 states "Credit Awards (1) Educational Degree Credits will be awarded per the requirements of Nevada Revised Statutes (NRS) 209.433-209.4465... (B) Non-accredited correspondence courses are not eligible for credit awards."

TCCS is a Christian correspondence college. It is accredited through the ~~ITAA~~ ^{ITAA} ~~ITAA~~ ^{ITAA}. But that is of no matter because AR 803.01(1)(B) is indirect opposition to NRS 209.4465(3). NRS 209.4465(3) is the law and cannot be superceded by an AR or OP. The NDOC has violated NRS 209.4465⁽³⁾ by putting additional requirements on inmates to receive days for their achievements. Seeing as NRS 209.4465(3) is the law then it must be followed to the letter.

REMEDIES:

Original:
Pink:

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Attached to Grievance
Inmate's Copy
JUN 22 2023

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MAY 04 2023

LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

RECEIVED

APR 10 2023

LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

DOC - 3097 (01/02)

033

NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Dustin Barral I.D. NUMBER: 1108615

INSTITUTION: LCC UNIT #: 1A15B

GRIEVANCE #: 2006-31-51052 GRIEVANCE LEVEL: Informal

GRIEVANT'S STATEMENT CONTINUATION: PG. 3 OF 3

① No retaliation for this grievance - no bad moves for me or my cellie, no targeted cell searches, no firing from my job, no institutional moves

② LCC/NDOC to follow NRS 209.4465(3) and put me in for 90 days of credit as well as put me in for Exceptional G.P.A for this degree as I've earned it.

③ Update all AR/OP's to follow the NRS's and not add additional requirements not found in the NRS's

Original: Attached to Grievance
Pink: Inmate's Copy

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LOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

RECEIVED

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LOVELOCK CORRECTIONAL
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DOC - 3097 (01/02)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Dustin Baral	1108615	1A15B	3/29/23

4.) REQUEST FORM TO: (CHECK BOX)

☐ MENTAL HEALTH ☐ CANTEEN
☐ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ DENTAL
☒ EDUCATION ☐ VISITING ☐ SHIFT COMMAND
☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Mr. Gallagher

6.) REQUEST: (PRINT BELOW) Last night I got an interoffice envelope from education with my transcripts from ICCS unopened for my Associate in Pastoral Ministry. Should I return it to you so you can put me in for my days for my degree or does this mean you refuse to put me in for credit for the Associate degree? I know what AR 803 says but it also states that Educational Degree Credits will be awarded per NRS 209.4465. NRS 209.4465 does not say anything about "accredited degrees". All it mentions is first associate degree or each additional degree of higher education earned by the offender. I will return my transcripts once you tell me to.

7.) INMATE SIGNATURE [Signature] DOC # 1108615

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

It was told by Carson City doc education staff that college programs have to be accredited to qualify for merit credit. I could email a copy of your transcript to Carson City and ask for a determination on if it counts for merit credit. The Bible College program the Chaplain runs does not qualify for merit credit.
 Mr. Gallye 3/30/23

RECEIVED

RECEIVED

RECEIVED

APR 10 2023

10.) RESPONDING STAFF SIGNATURE JUN 22 2023MAY 04 2023DATE
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CENTER - GRIEVANCESLOVELOCK CORRECTIONAL
CENTER - GRIEVANCES

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Dustin Barral	1108615	1A15B	4/3/23

4.) REQUEST FORM TO: (CHECK BOX)

☐ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN
☒ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL
☐ LAUNDRY ☐ PROPERTY ROOM ☐ SHIFT COMMAND ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Mr. Gallagher

6.) REQUEST: (PRINT BELOW) Please email a copy of my transcript to Carson City and ask for a determination if it counts for days as per NRS 209.4465. Please remind Carson City that NRS 209.4465 is the law and does not require any accreditation. Also if you open my transcripts, they will still be good and it will not need a new set sent in?

7.) INMATE SIGNATURE [Signature] DOC # 1108615

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

I sent your transcript to Carson and asked them to let me know if it qualified for merit credit.

Mr. Gallagher 4/5/23

RECEIVED

RECEIVED

RECEIVED

10.) RESPONDING STAFF SIGNATURE JUN 22 2023

MAY 04 2023

APR 10 2023

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CENTER - GRIEVANCES

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Dustin Barnd	1108615	1A15B	3/19/23

- 4.) REQUEST FORM TO: (CHECK BOX)
- ☐ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ CANTEEN
☒ EDUCATION ☐ VISITING ☐ SHIFT COMMAND ☐ DENTAL
☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Mr. Gallagher

6.) REQUEST: (PRINT BELOW) You should be receiving transcripts from TCCS for my Associate Degree in Pastoral Ministry. Please let me know when you receive it and put me in for days / exceptional G.P.A

7.) INMATE SIGNATURE [Signature] DOC # 1108615

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

U got a response from Carson City that your Pastoral Ministry degree does not qualify for merit credit.

Mr. Gallagher - Education 4/1/23

RECEIVED

RECEIVED

10.) RESPONDING STAFF SIGNATURE JUN 22 2023

RECEIVED

MAY 04 2023

DATE APR 10 2023

LOVELOCK CORRECTIONAL
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Case No. 27CV-WR1-2023-0230

*Pursuant to NRS 229B.030, the undersigned affirms
That this document does not contain social security numbers.*

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**REQUEST FOR TELEPHONIC
APPEARANCE**

COMES NOW, Respondents, by and through counsel, does hereby request permission for the
following party to appear by telephone at the hearing currently set for September 25, 2023, at 2:30 p.m.

RESPECTFULLY SUBMITTED this 12th day of September, 2023.

AARON D. FORD
Attorney General

By: /s/ Elsa Felgar
ELSA FELGAR (Bar No. 16076)
Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1115
(775) 684-1108
efelgar@ag.nv.gov

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General and that on this 12th day of
3 September, 2023, I caused to be deposited for mailing a true and correct copy of the foregoing,
4 **REQUEST FOR TELEPHONIC APPEARANCE**, to the following:

5 Dustin Barral # #1108615
6 Lovelock Correctional Center
7 1200 Prison Road
8 Lovelock, NV 89419

9 /s/ Amanda White

Case No. 27CV-WR1-2023-0230

*Pursuant to NRS 229B.030, the undersigned affirms
That this document does not contain social security numbers.*

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**ORDER REGARDING REQUEST FOR
TELEPHONIC APPEARANCE**

Upon consideration of the Request for Telephonic Appearance filed on September 12, 2023; and
with good cause appearing;

IT IS HEREBY ORDERED that the Request for Telephonic Appearance is hereby
GRANTED and that Elsa Felgar, Esq. may appear by telephone for the hearing set for September 25,
2023, at 2:30 PM

Please contact the Court Administrator, Kate Martin, at the District Court Administrative Office
in Lovelock, Nevada, at 775-273-2410, ext. 1322 to obtain a call-in number and access code. (Numbers
are assigned 48 hours in advance)

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order Regarding Telephonic Appearance Request

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs,

TIM GARRETT, WARDEN LLC,

Respondent.

AFFIDAVIT OF MAILING

I, Adriana Ramos, being first duly sworn depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that I am a Deputy Court Clerk of the 11th Judicial District Court and that I caused to be served, a copy of ORDER REGARDING REQUEST FOR TELEPHONIC APPEARANCE that was served electronically, in compliance with the Eleventh Judicial District Court's electronic filing system or enclosed in a sealed envelope with first class prepaid postage, addressed to:

Dustin Barral #1108615
1200 Prison Road
Lovelock Correctional Center
Lovelock, Nv 89419
Traditional Mail

DATED this 15th day of September 2023.

KATE MARTIN
CLERK OF THE COURT
By: Adriana Ramos

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LLC,

Respondent.

**ORDER AFTER HEARING ON
SEPTEMBER 25, 2023**

THIS MATTER came before the Court on the Court's Order to Show Cause as to why the case should not be dismissed. The case was called. Petitioner was present in person and Counsel for the Respondent was not on the line for the telephonic appearance. Based on the non-appearance of the Deputy Attorney General,

IT IS HEREBY ORDERED that the Attorney General's office shall file a response in accordance with the Order to Respond which was mailed on August 28, 2023.

IT IS SO ORDERED.

///

///

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order After Hearing

It is so Ordered.

Judge Shirley

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LLC,

Respondent.

**AMENDED ORDER AFTER
HEARING ON SEPTEMBER 25,
2023**

THIS MATTER came before the Court on the Court's Order to Show Cause as to why the case should not be dismissed. The case was called. Petitioner was present in person and Counsel for the Respondent was not on the line for the telephonic appearance. Based on the non-appearance of the Deputy Attorney General and based on Petitioner's testimony that the Writ is not duplicative, the Court finds that a response would assist the Court in determining whether the petitioner is illegally imprisoned and restrained of his liberty.

IT IS HEREBY ORDERED that the Attorney General's office shall file a response in accordance with the Order to Respond which was mailed on August 28, 2023.

IT IS SO ORDERED.

///

**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order After Hearing

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LLC,

Respondent.

AFFIDAVIT OF MAILING

I, Adriana Ramos , being first duly sworn depose and say: That I am, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that I am a Deputy Court Clerk of the 11th Judicial District Court and that I caused to be served, a copy of ORDER AFTER HEARING ON SEPTEMBER 25, 2023 and AMENDED ORDER HEARING ON SEPTEMBER 25, 2023 that was served electronically, in compliance with the Eleventh Judicial District Court's electronic filing system or enclosed in a sealed envelope with first class prepaid postage, addressed to:

Dustin Barral #1108615
1200 Prison Road
Lovelock Correctional Center
Lovelock, Nv 89419

DATED this 28th day of September 2023.

KATE MARTIN
CLERK OF THE COURT
By: Adriana Ramos

Case No. 27CV-WR1-2023-0230

*Pursuant to NRS 229B.030, the undersigned affirms
That this document does not contain social security numbers.*

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS**

Respondents oppose Petitioner Dustin Barral's *Petition for Writ of Habeas Corpus* filed on August 22, 2023, because Barral is already receiving all educational degree and meritorious award credit allowed under the law against his aggregate maximum sentence. Additionally, Barral does not have a constitutionally protected liberty interest in receiving education credits. Respondents base this Response upon the papers and pleadings on file herein and the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

BACKGROUND

Barral is currently incarcerated in Lovelock Correctional Center. *See Exhibit A, Inmate Search.* Barral is actively serving an aggregate sentence arising from criminal acts he committed in 2010. *See Exhibit B, Second Amended Information.*

On September 18, 2017, the Court adjudicated Barral guilty of Count 1 – Attempt Sexual Assault with a Minor Under Fourteen Years of Age, a category B felony; and Count 2 – Child Abuse, Neglect, or Endangerment, a category B felony. *See Exhibit C, Judgment of Conviction.* The Court sentenced Barral to incarceration for an aggregate total maximum sentence of three hundred and twelve

1 months, with an aggregate minimum of one hundred and twenty-four months. *See id.* Barral received
2 1,574 days credit for time served. *See id.*¹

3 On February 21, 2023, in Eleventh Judicial District Court Case No. 27CV-WR1-2023-0059,
4 Barral filed his first Petition for Writ of Habeas Corpus, and subsequently filed a Supplemental Brief on
5 March 28, 2023. In that case, Barral challenged the program/meritorious/educational credits applied to
6 his aggregate maximum sentence, including credit for his first two associate degrees. That matter is
7 currently on appeal before the Nevada Supreme Court in Case No. 87139. While his other state habeas
8 case remained pending, Barral filed the instant Petition for Writ of Habeas Corpus on August 22, 2023,
9 regarding an additional associate degree. This Court issued an Order to Show Cause for Dismissal to
10 address the possible duplicative nature of this second Petition. On September 25, 2023, the hearing took
11 place where, unfortunately, undersigned counsel was present for all but the five minute period when
12 this case was called. *See Exhibit D, Deputy Attorney General Declaration.* Respondent now files this
13 Response in accordance with the Court's Amended Order After Hearing on September 25, 2023, filed
14 on September 28, 2023.

15 ARGUMENT

16 A. Barral Is Not Entitled to Educational and Meritorious Credit for His Additional 17 Associate Degree Earned From An Unaccredited Educational Institution.

18 Barral alleges he is entitled to educational and meritorious credit for the additional associate
19 degree he earned from an unaccredited college. Specifically, Barral claims the NDOC refuses to give
20 him credit for his "Associate in Pastoral Ministry from the International Christian College and
21 Seminary" and his "Exceptional G.P.A" for his degree. However, NRS 209.4465 explicitly specifies
22 that educational credit for additional degrees is not automatic; rather, such credit is subject to the
23 restrictions and regulations implemented by the Director:

24 3. The Director may, in his or her discretion, authorize an offender to
25 receive a maximum of 90 days of credit for each additional degree of
26 higher education earned by the offender.

27 . . .

28 ¹ As the Petitioner challenges the NDOC's computation of time, rather than his judgment of conviction or sentence, Respondents do not address NRS 34.760.

1 5. The Director may allow not more than 90 days of credit each year for
2 an offender who engages in exceptional meritorious service.

3 NRS 209.4465(3), (5) (emphasis added).

4 The Director set forth the requirements to receive educational degree and meritorious credits in
5 NDOC Administrative Regulation (“AR”) 803. *See* Exhibit E, *Copy of AR 803*. AR 803 reiterates that
6 credit for “each additional higher educational degree is at the Director’s discretion,” and that credit
7 awards for “exceptional meritorious service and achievement credits” such as GPA are also at the
8 Director’s discretion. AR 803.01(1)(A); AR 803.01(4). Only programs/degrees from accredited
9 correspondence courses are eligible for credit. AR 803.01(1)(B). Even “approved classes and
10 programs” credits are subject to the Director’s discretion. AR 803.01(8).

11 Here, Barral cannot receive credit for his additional associate degree and GPA. Barral already
12 received credit for a previous associate degree. *See* Exhibit F, *Declaration of Kristy Rodriguez*. Credits
13 for his additional associate degrees, including the one at issue here, are therefore subject to AR 803. *See*
14 NRS 209.4465(3). Barral obtained his latest associate degree from the International Christian College
15 and Seminary, which is not an accredited college. *See* Exhibit F. The NDOC did not approve Barral to
16 receive credit for his associate degree from that institution. *See id.* Since Barral’s additional degree is
17 from an unaccredited and unapproved institution, he may not receive educational or meritorious credit
18 for his degree and GPA. *See* NRS 209.4465(3); AR 803.01(1)(B); AR 803.01(04). Therefore, Barral’s
19 claims regarding entitlement to further educational/meritorious credit lack merit and this Court must
20 deny his Petition.²

21 **B. Barral’s Request for a Court Order Regarding the NDOC’s Administrative
22 Regulations Is Non-Cognizable in Habeas.**

23 In his Petition, Barral improperly requests the Court issue an order to force the NDOC to change
24 its ARs. Barral appears to argue that the NDOC “is breaking the law” by abiding by AR 803, which he

25 ² To the extent Barral also argues the educational/meritorious credits he earned should be
26 applied against his aggregate minimum parole eligibility rather than his aggregate maximum sentence,
27 his claim also lacks merit. On June 22, 2023, Barral appeared before the Parole Board, and the Board
28 granted parole. *See* Exhibit G, *Parole Board Hearing Details*. There is no relief available when an
 offender already appeared before the parole board on his sentence; therefore, to the extent Barral also
 alleges entitlement to application of credit against his minimum parole eligibility, such claim is moot.
 See Williams v. State Dep’t of Corr., 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017); *see also*
 Kille v. Cox, Case No. 2:15-cr-00062-JCM-GWF, 2016 WL 1239253, pg. 6.

1 claims is unconstitutional in requiring educational institutions to be accredited because “NRS 209.4465
2 does not place any accreditation restrictions on earning a degree and neither should the NDOC/LCC.”
3 Barral further alleges the NDOC must “conform with the laws of the State of Nevada so that future
4 inmates can earn credit for bible college degrees.”

5 First, Barral’s argument regarding entitlement to educational degree credits is misguided, as he
6 has no constitutionally protected liberty interest in earning such credits. In Nevada, the statutes relating
7 to work/study credits create only the *possibility* of earning an earlier release; they create no
8 constitutionally protected liberty interest. Inmates must actually perform work or complete *approved*
9 study programs to earn work/study credits. *See Vickers v. Dzurenda*, 433 P.3d 306, 308 (Nev. App.
10 2018) (stating that “to be diligent in labor, one must actually apply oneself to the labor.”). Thus, the
11 NDOC is not violating Barral’s constitutional rights in imposing restrictions on educational/meritorious
12 credits from unapproved study programs.

13 Moreover, as detailed above, the Director possesses discretion over policies and procedures
14 regarding educational/meritorious credit awards, which includes the ARs. *See* NRS 209.4465(3), (5);
15 *see also* NRS 209.4465(6). The ARs are permitted under the law and governed by the Director, not the
16 Court. As such, a petition for writ of habeas corpus – which is specifically limited to challenges
17 regarding an inmate’s judgment, conviction, or the NDOC’s computation of time – is not an appropriate
18 vehicle for Barral to seek a change to the ARs. Because this is not an appropriate forum for Barral’s
19 claims, he fails to state a claim for which relief may be granted and his Petition should be denied.

20 CONCLUSION

21 This Court should deny Barral’s Petition for Writ of Habeas Corpus because the law precludes
22 his request for application of educational and meritorious credits.

23 RESPECTFULLY SUBMITTED this 9th day of October, 2023.

24 AARON D. FORD
Attorney General

25 By: /s/ Elsa Felgar
26 ELSA FELGAR (Bar No. 16076)
27 Deputy Attorney General
28 State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1115
efelgar@ag.nv.gov

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INDEX OF EXHIBITS

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
A.	Inmate Search	2
B.	Second Amended Information	2
C.	Judgment of Conviction	2
D.	Deputy Attorney General Declaration	2
E.	Copy of AR 803	9
F.	Declaration of Kristy Rodriguez	1
G.	Parole Board Hearing Details	1

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General and that on this 9th day of
3 October, 2023, I caused to be deposited for mailing a true and correct copy of the foregoing,
4 **RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS** to the following:

5 Dustin Barral # #1108615
6 Lovelock Correctional Center
7 1200 Prison Road
8 Lovelock, NV 89419

9 /s/ Amanda White

EXHIBIT A

EXHIBIT A

Search By Offender ID

Offender ID: 1108615

-or-

Search By Demographics

First Name: Wildcard %

Last Name: Wildcard %

Submit

NOTICE:

The information provided here represents raw data. As such, the Nevada Department of Corrections makes no warranty or guarantee that the data is error free. The information should not be used as an official record by any law enforcement agency or any other entity.

Any questions regarding an inmate, please call Family Services at (775) 977-5707. Victims looking for inmate information please contact Victim Services at (775) 977-5733. Any questions regarding the web portal for law enforcement access to inmate information should be referred to Aiding PIO Bill Quenga. email: wquenga@doc.nv.gov or (775) 977-5699

Currently the following web browsers are supported for the Inmate Search: Internet Explorer 11, Chrome, Firefox and Opera. If you are unable to view inmate photos, please use a supported browser.

Download Offender Data

[Demographic](#), [Alias](#), [Booking](#), [Parole](#), [Release](#)

Up to date as of 2023-09-11

Identification and Demographics

Name	Offender ID	Gender	Ethnic	Age	Height	Weight	Build	Complexion	Hair	Eyes	Institution	Custody Level	Aliases	Prior Felonies
DUSTIN JAMES BARRAL	1108615	Male	NOT HISPANIC	39	5'9"	200lb		FAIR	BROWN	BROWN	LOVELOCK CORRECTIONAL CENTER	MEDIUM	DUSTIN J BARRAL, DUSTIN BARRAL	NO

Booking Information

Offense Code	Offense Description	Sent. Status	Sent. Min	Sent. Max	Sent. PED	Sent. MPR	Sent. County	Sent. PEXD	Sent. Type	Sent. RRD	Sent. Start Date
3537	ATT SEXUAL ASSAULT, VICT UND 16	Aggregated	0 yr. 96 mo. 0 days	0 yr. 240 mo. 0 days			CLARK COUNTY COURTHOUSE		DETERMIMATE		2013-05-28
A007	Aggregate	Active	10 yr. 4 mo. 0 days	26 yr. 0 mo. 0 days	2023-09-27	2025-05-21	AGGREGATE SENTENCING	2025-11-22	DETERMIMATE		2013-05-28
2145	SEXUAL ASSAULT VICT UNDER 16	Inactive	0 yr. 420	0 days	2048-05-29		CLARK COUNTY		LIFE WITH PAROLE		2013-05-30

		COURTHOUSE							
		mo. 0 days							
2145	SEXUAL ASSAULT VICT UNDER 16	Inactive		2048- 05-29	CLARK COUNTY COURTHOUSE	LIFE WITH PAROLE		2013- 05-30	
2144	ABUSE/NEGLECT/ENDANGER CHILD	Aggregated	0 yr. 28 mo. 0 days	0 yr. 72 mo. 0 days	CLARK COUNTY COURTHOUSE	DETERMINATE		2024- 03-13	

Inmate Photo



Parole Hearing Details

Offender Book ID	Parole Hearing Date	Parole Hearing Location
181260	2023-06-22	PAROLE BOARD ROOM 201

EXHIBIT B

EXHIBIT B

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHELLE JOBE
Chief Deputy District Attorney
Nevada Bar #010575
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAY 22 2017

BY: *Carol Donahoo*
CAROL DONAHOO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DUSTIN JAMES BARRAL,
#2755494

Defendant.

Case No: C269095
Dept No: VIII

SECOND AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That DUSTIN JAMES BARRAL, the Defendant(s) above named, having committed the crimes of **ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony - NRS 200.364, 200.366, 193.330 - NOC 50123)** and **CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1) - NOC 55226)**, on or between the 10th day of July, 2010, and the 12th day of July, 2010, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

///

C-10-269095-1
AINF
Amended Information
4658359



W:\2010\2010F\14936\10F14936-AINF-(BARRAL)-001.DOCX

1 COUNT 1 - ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
2 YEARS OF AGE

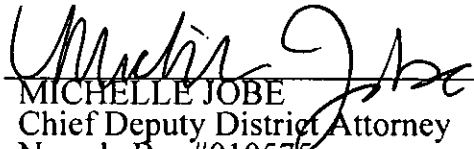
3 did then and there willfully, unlawfully, and attempt to feloniously attempt to sexually
4 assault and subject J.C., a child under fourteen years of age, to sexual penetration, to wit:
5 digital penetration, by attempting to insert his finger(s) into the genital opening and/or anal
6 opening of the said J.C., against his or her will, or under conditions in which Defendant knew,
7 or should have known, that J.C. was mentally or physically incapable of resisting or
8 understanding the nature of Defendant's conduct.

9 COUNT 2 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

10 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to
11 wit: J.C., being approximately 5 year(s) of age, to suffer unjustifiable physical pain or mental
12 suffering as a result of abuse or neglect, to wit: mental injury of a non accidental nature, and/or
13 cause J.C. to be placed in a situation where she might have suffered unjustifiable physical pain
14 or mental suffering and/or sexual abuse as a result of abuse or neglect, to wit: mental injury of
15 a non accidental nature, by touching the said J.C. in a manner and means in which she did not
16 want to be touched.

17 STEVEN B. WOLFSON
18 DISTRICT ATTORNEY
Nevada Bar #001565

19
20 BY


21 MICHELLE JOBE
22 Chief Deputy District Attorney
Nevada Bar #010575

23
24
25
26 DA#10F14936X/jm/SVU
27 LVMPD EV#1007142664
28 (TK3)

EXHIBIT C

EXHIBIT C

Steven D. Grierson

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-10-269095-1

-vs-

DEPT. NO. VIII

DUSTIN JAMES BARRAL

#2755494

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY- ALFORD)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to Alford Decision to the crimes of COUNT 1 – ATTEMPT SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category B Felony) in violation of NRS 200.364, 200.366, 193.330; and COUNT 2 – CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); thereafter, on the 18th day of September, 2017, the Defendant was present in court for sentencing with counsel Michael Castillo, Esq., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the

<input type="checkbox"/> Not a Proceed (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

[Signature]

1 Defendant is sentenced to the Nevada Department of Corrections as follows: COUNT
2 1 - a MAXIMUM of TWO HUNDRED AND FORTY (240) MONTHS with a MINIMUM
3 parole eligibility of NINETY-SIX (96) MONTHS; and COUNT 2 - a MAXIMUM of
4 SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT
5 (28) MONTHS, CONSECUTIVE to COUNT 1; with ONE THOUSAND AND FIVE
6 HUNDRED SEVENTY-FOUR (1,574) DAYS credit for time served. The
7 AGGREGATE TOTAL sentence is THREE HUNDRED AND TWELVE (312) MONTHS
8 MAXIMUM with a MINIMUM of ONE HUNDRED AND TWENTY-FOUR (124)
9 MONTHS.
10
11

12 FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION
13 is imposed to commence upon release from any term of imprisonment, probation or
14 parole. In addition, before the Defendant is eligible for parole, a panel consisting of
15 the Administrator of the Mental Health and Development Services of the Department
16 of Human Resources or his designee; the Director of the Department of corrections or
17 his designee; and a psychologist licensed to practice in this state; or a psychiatrist
18 licensed to practice medicine in Nevada must certify that the Defendant does not
19 represent a high risk to re-offend based on current accepted standards of assessment.
20
21

22 ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender
23 in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any
24 release from custody.

25 DATED this 28 day of September, 2017

26
27
28
DOUGLAS E. SMITH
DISTRICT COURT JUDGE

EXHIBIT D

EXHIBIT D

Case No. 27CV-WR1-2023-0230

*Pursuant to NRS 229B.030, the undersigned affirms
That this document does not contain social security numbers.*

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

DUSTIN BARRAL,

Plaintiff,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

DECLARATION OF COUNSEL

STATE OF NEVADA)
 : ss.
CARSON CITY)

I, ELSA FELGAR, hereby state, based on personal knowledge and/or information and belief, that the assertions of this declaration are true:

1. I am a Deputy Attorney General in the Post-Conviction Division of the Nevada Attorney General's Office, and I make this declaration on behalf of Respondents' Response to Petitioner Dustin Barral's Petition for Writ of Habeas Corpus.

2. Barral filed his Petition on August 22, 2023.

3. This Court issued an Order to Show Cause for Dismissal, and set the hearing date for September 25, 2023, at 2:30 p.m. Respondent filed a Request for Telephonic Appearance on September 12, 2023, which this Court granted.

4. On September 22, 2023, undersigned counsel received the call-in number and access code for the hearing.

5. At 2:10 p.m. on September 25, 2023, undersigned counsel dialed the call-in number and waited on the line until 2:50 p.m. From 2:50 until 2:57 p.m., undersigned counsel attempted to contact

1 the Eleventh Judicial District Court Administrator/Clerk of the Court to determine if counsel was in the
2 proper call. From 2:57 until 3:01 p.m., undersigned counsel spoke with the Eleventh Judicial District
3 Court Legal Assistant, who confirmed counsel was in the proper call. At 3:01 p.m., undersigned
4 counsel re-dialed the call-in number and stayed on the line until 4:57 p.m.

5 6. Undersigned counsel later learned, upon information and belief from telephonic records, the
6 case had been called at 2:59 p.m.

7 Pursuant to 28 U.S.C. § 1746, Declarant herein certifies, under penalty of perjury, that the
8 foregoing is true and correct.

9 Dated this 9th day of October, 2023.

10 /s/ Elsa Felgar

11 ELSA FELGAR
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EXHIBIT E

EXHIBIT E

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
803**

NEVADA DEPARTMENT OF CORRECTIONS CREDIT AWARDS

Supersedes: AR 803 (Temporary, 01/12/12)
Effective Date: 06/17/12

AUTHORITY: NRS 209.432 – 449

RESPONSIBILITY

The designated Deputy Director is responsible for the Department's meritorious credits awards process.

The Warden is responsible to assure timely and accurate processing of these credits.

All staff are responsible to have knowledge of, and comply with this procedure.

803.01 CREDIT AWARDS

1. Educational Degree Credits will be awarded per the requirements of Nevada Revised Statutes (NRS) 209.433-209.4465.

A. Credit for each additional higher educational degree is at the Director's discretion. If granted, a maximum of 90 credits will be awarded.

B. Non-accredited correspondence courses are not eligible for credit awards.

C. Inmates are responsible to provide appropriate documentation if there are discrepancies in records.

D. Inmates cannot receive credits for a secondary educational degree that is less than the one already obtained. Example: If an inmate has an AA degree, he cannot receive credit for a high school diploma.

E. Inmates are permitted to receive credits for a post secondary educational degree that is lower than one already earned. Example: If an inmate already has earned a masters degree (e.g. M.S. in Social Work), he or she can get credit for a associate of arts in Astronomy. An A.A. is a lower degree than an M.S., but both are higher education, post-secondary degrees which is what NRS 209.4465 (3) requires.

2. Substance abuse treatment credit awards shall be awarded per the requirements of NRS 209.448.

A. Inmates may attend the program more than once; however, credits will only be awarded once per booking.

B. Credits will only be awarded for programs instructed by a person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern or a psychologist employed by the Department.

C. Each phase of inpatient substance abuse programs are considered to be a complete program for purpose of meritorious awards. Credits for inmates will be submitted at the end of each phase.

3. Vocational Education and Training or other approved program completion credits will be awarded per the requirements of NRS 209.449.

A. An inmate must complete all phases or course work prior to receiving credits.

B. Credits will be granted for completion of a vocational program in addition to credits awarded for a GED and/or High School Diploma.

4. Per the requirements of NRS 209.446, 209.4465, and 209.449, the Director has discretion to award exceptional meritorious service and achievement credits.

A. No program is preapproved to offer exceptional meritorious service credits as an enticement to participate in the program.

B. Exceptional meritorious service credits awarded under authority of NRS 209.446 and 209.4465 cannot exceed 90 credits per year.

5. A list of approved credit programs will be distributed to all facilities and institutions and updated as necessary.

A. The designated Deputy Director is responsible for reviewing, maintaining and distributing a list of approved credit awards.

6. Exceptional meritorious service credit awards for fire suppression services must be submitted on DOC form 3077 prescribed by the Department.

A. Fire suppression credits are submitted by the State Forester.

B. Exceptional meritorious service credits awarded for fire suppression contribute to the 90-credit limit noted in Section 4.B.

- C. The Director or the Director's designee will determine which inmates will be granted these credits and the amount of credits, if any, to approve.
7. Wardens may request exceptional meritorious service credits for inmates housed under special circumstances such as but not limited to, gyms and security /threat group debriefing units.
- A. The Director or the Director's designee will determine the rate at which credits are awarded in special housing situations.
- B. Institutional operational procedures must be submitted along with the request, detailing the institutional criteria and submission process for inmates to receive these credits.
8. Approved classes and programs may be awarded credits as determined by appropriate state statutes with the Director's discretion.
9. No inmate shall have any involvement in gathering or documenting meritorious credits.
10. Under NRS 209.449 and NRS 209.448, educational, vocational and substance abuse treatment program credits must be given in full.
11. Institutions will ensure that credits being submitted are not a duplication of previous credits earned for the same event.
12. Credits earned for vocational and educational achievement will be reviewed by the Department's Primary/Secondary Educational Consultant.
13. All requests for exceptional meritorious service credits under NRS 209.446 and NRS 209.4465 require a separate posting.
14. All credits will be processed and posted via the NOTIS system.
15. The inmate grievance process will be used to resolve all disputes.
16. OMD Staff can reduce the credit award to bring sentence credits in line with actual release dates. Only the Director/designee can reduce credits. Credit awards which create a situation of immediate release will be processed as expeditiously as possible on a case by case basis.
17. DOC form 3077 will be utilized to make manual adjustments to an inmate's credit record.
18. These provisions do not create any liberty interest or right to any credits on behalf of inmates, nor is any liberty interest to be implied from any part of these provisions.

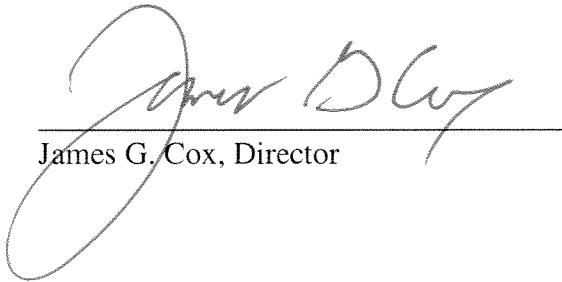
APPLICABILITY

1. This AR requires an Operational Procedure (OP) for each institutional facility.

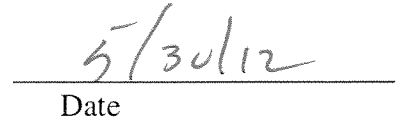
2. This AR requires an audit.

ATTACHMENT

Attachment 1 - NDOC AR 803 Credit Awards



James G. Cox, Director



Date

NEVADA DEPARTMENT OF CORRECTIONS
AR 803 CREDIT AWARDS

EFFECTIVE 06/16/2011

Higher Educational Programs		Crimes committed on or after 7-17-97. Credits apply to minimum only for those inmates that qualify under NRS 209.446(8)		Contributes to 90-day per calendar year	NOTIS Override available
Bachelor's (BA or BS) Degree	209.446(3)	Min			
Master's (MA or MS) Degree	90	Y		N	N
Second MA, BA, BS, MS, PhD	90	Y		N	N
	90	Y		N	N

Educational Programs		Crimes committed after 7-1-85 and sentenced before 7/17/97. Credits apply to all minimum sentences except those that have a specified minimum		Crimes committed on or after 7-17-97. Credits apply to minimum only for those inmates that qualify under NRS 209.446(8)	Contributes to 90-day per calendar year	NOTIS Override available
GED	NRS 209.446(2)	Min				
High School Diploma	30	Y		Min		
	60	Y		60	Y	N
	90	Y		90	Y	N
Associate's (AA) Degree	90	Y		120	Y	N

Job Skills		Crimes committed after 7-1-85 and sentenced before 7/17/97. Credits apply to all minimum sentences except those that have a specified minimum		Crimes committed on or after 7-17-97. Credits apply to minimum only for those inmates that qualify under NRS 209.446(8)	Contributes to 90-day per calendar year	NOTIS Override available
Health I	NRS 209.446(4) (90/cal yr)	Min				
Health II	30	Y		30	Y	N
Health III	30	Y		30	Y	N
Building Your Future: Job Readiness Skills	30	Y		30	Y	N
Commercial Drivers License	15	Y		15	Y	N
Financial Literacy	15	Y		15	Y	N
Food Design (UNR Coop. Ex)	15	Y		15	Y	N
Forklift Operator Training	15	Y		15	Y	N
Horticulture (UNR Coop. Ex)	15	Y		15	Y	N
Master Carpenter (UNR Coop. Ex)	30	Y		30	Y	N
OSHA/10 Construction Safety and Health Outreach Course	10	Y		10	Y	N
Photographic	10	Y		10	Y	N
Seaside	30	Y		30	Y	N
Western (the-emp)	10	Y		10	Y	N

NIF CHS98S		Crimes committed after 7-1-85 and sentenced before 7/17/97. Credits apply to all minimum sentences except those that have a specified minimum		Crimes committed on or after 7-17-97. Credits apply to minimum only for those inmates that qualify under NRS 209.446(8)	Contributes to 90-day per calendar year	NOTIS Override available
Certifying Aboard	NRS 209.446(4) (90/cal yr)	Min				
Freightliner Basic Training S130 & S132 (NDF)	30	Y		30	Y	N
Freightliner Basic Training S130 & S132 (NDF)	30	Y		30	Y	N
Freightliner Helicopter Firefighter Training S-271 (NDF)	30	Y		30	Y	N

C:\DOCUIME-1\MSB\AC-1\LOCALS-1\Temp\XPGrpWiseCopy of Ment Credits Revised 12-14-11_2_1

**NEVADA DEPARTMENT OF CORRECTIONS
AR 803 CREDIT AWARDS**

EFFECTIVE: 06/16/2011

Program Course	Crimes committed after 7-1-85 and sentenced before 7/1/97		Crimes committed on or after 7-1-97 - Credits apply to minimum only for those inmates that qualify under NRS 209.446(5)(b)		Credits for 30-day per calendar year	NOTES Override available
	NRS 209.446(4) (90CA1 Y)	Min	NRS 209.446(5) (90CA1 Y)	Min		
Adults of Parenting/Maturing Families/Parent Teen Solutions (Clark County Social Services Parenting Project) All 3 must be completed for one award of 15 credits.						
Anger Management	15	Y	15	Y	Y	N
Anger Your Rage	15	Y	15	Y	Y	N
Certified Mediation	15	Y	15	Y	Y	N
Commitment to Change - Phase I Volume 1-3	0	Y	15	Y	Y	N
Commitment to Change - Phase II Volume 4-6	0	Y	15	Y	Y	N
Commitment to Change - Phase III Volume 7-9 All 9 phases must be complete prior to obtaining 45 credits. Exception if inmate is moved prior to completion, will receive 15 credits for 1st phase.	45	Y	15	Y	Y	N
Communications	15	Y	15	Y	Y	N
Domestic Violence	15	Y	15	Y	Y	N
Emotions: Mgr: SOS Help for Emotions	15	Y	15	Y	Y	N
Family	15	Y	15	Y	Y	N
Fitness and Wellness	30	Y	30	Y	Y	N
Group Awareness (per six months)	30	Y	30	Y	Y	N
Group Awareness	15	Y	15	Y	Y	N
Health-Related Recovery - HRH (NMCC, SCC)	20	Y	30	Y	Y	N
Job Survival Skills	15	Y	15	Y	Y	N
Master Out-of-State	15	Y	15	Y	Y	N
Maternal Health and Child Care (EMWCC)	15	Y	15	Y	Y	N
New Beginnings	30	Y	30	Y	Y	N
One Word	60	Y	60	Y	Y	N
Parenting	15	Y	15	Y	Y	N
Parental Solutions	15	Y	15	Y	Y	N
Relationship Skills	15	Y	15	Y	Y	N
Seeking Safety I	15	Y	15	Y	Y	N
Seeking Safety II	15	Y	15	Y	Y	N
Serious Structured Living "True Gift" - Per Phase STEPS	15	Y	30	Y	Y	N
STOP Sex Offender I	30	Y	30	Y	Y	N
STOP Sex Offender II	30	Y	30	Y	Y	N
STOP Sex Offender III	30	Y	30	Y	Y	N
STOP Sex Offender IV	30	Y	30	Y	Y	N
Stress/Anxiety Management	15	Y	15	Y	Y	N
Structured Living Program - Basic Training (LCC)	30	Y	30	Y	Y	N
Structured Living Program - Revision	30	Y	30	Y	Y	N
Surviving Sexual Assault (SQA) (TWCC)	15	Y	15	Y	Y	N
Thinking for a Change	15	Y	15	Y	Y	N
Unbearable Stress	15	Y	15	Y	Y	N
Victim Awareness/Empathy	15	Y	15	Y	Y	N
Women's Health	15	Y	15	Y	Y	N

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EFFECTIVE 06/16/2011

NEVADA DEPARTMENT OF CORRECTIONS
AR 803 CREDIT AWARDS

C:\DOCUMENTS\TMSBLAC-RL\LOCALS-T\Temp\XpGpwise\Copy of Merit Credits Revised 12-14-11_2...1

**NEVADA DEPARTMENT OF CORRECTIONS
AR 803 CREDIT AWARDS**

EFFECTIVE 06/16/2011

Exceptional Meritorious Service Awarded on a Case by Case Basis Earned Exceptional G.P.A. Withdrew from Court (by Freq)	Crimes committed after 7-1-85 and sentenced before 7/17/97 Credits apply to all minimum sentences except those that have a specified minimum.		Crimes committed on or after 7-17-97. Credits apply to minimum only for those inmates that qualify under NRS 209.446(8)		Contributes to 90-day per calendar year inmate	NOTES Override available
	NRS 209.446(1) (90cal yr) up to a maximum of 90 up to a maximum of 90	Min. Y Y	NRS 209.446(5) (90cal yr) up to a maximum of 90 up to a maximum of 90	Min. Y Y		
					Y	Y
					Y	Y
					Y	Y

Substance Abuse Treatment Programs		Sentenced on or after 10/1/1991		Contributes to 90-day per calendar year inmate	NOTES Override available
Addiction Prevention Education Core Program		NRS 209.448	Min.		
ANCHOR Program I		60	N	N	Y
ANCHOR Program II		60	N	N	Y
ANCHOR Program III		60	N	N	Y
ANCHOR Program I		60	N	N	Y
ANCHOR Program II		60	N	N	Y
ANCHOR Program III		60	N	N	Y
ONASIS Program I		60	N	N	Y
ONASIS Program II		60	N	N	Y
ONASIS Program III		60	N	N	Y

Vocational, Educational and Training or other Program		No time frame requirement		Contributes to 90-day per calendar year inmate	NOTES Override available
		NRS 209.448(1)	Min.		
Advanced Computers		60	N	N	N
Air Conditioning and Heating		60	N	N	N
Auto Cad		60	N	N	N
Auto Mechanics/Auto Shop		60	N	N	N
Automotive Technology		60	N	N	N
Business		60	N	N	N
College Certificate		60	N	N	N
Collision Repair		60	N	N	N
Computers		60	N	N	N
Construction		60	N	N	N
Culinary		60	N	N	N
Dairying		60	N	N	N
Dry Cleaning		60	N	N	N
Entrepreneurship		60	N	N	N
English as a Second Language		60	N	N	N
Green Technology		60	N	N	N
Plant Science and Horticulture		60	N	N	N
Welding		60	N	N	N

NEVADA DEPARTMENT OF CORRECTIONS AR 803 CREDIT AWARDS

EFFECTIVE 06/16/2011

Vocational, Educational and Training or other Program				No time frame requirement		Continues to	NOTIS
3.5 Cumulative GPA or other Exceptional Course Completion Awarded on a Case By Case Basis				NRS 209.449(2)	Min	90-day per calendar year limit	Override available
				60	N	N	N

Footnotes:

- All credits earned pursuant to NRS 209.4465 are not applied to the maximum sentence, if the offender convicted of:
- (a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;
 - (b) A sexual offense that is punishable as a felony;
 - (c) A violation of NRS 484.379, 484.3795, 484.37955 or 484.379778 that is punishable as a felony; or
 - (d) A category A or B felony.
- Credits awarded pursuant to NRS 209.449.1 must equal a total of 60 to be granted as that is considered a program.
- All credits earned pursuant to NRS 209.446.4 and 209.4465.5 cannot exceed 90 days in a calendar year.
- For sentence credits for offender sentenced on or before June 30, 1989, see NRS 209.433.
- For sentence credits for offender sentenced after June 30, 1989, and before July 1, 1985 for crime committed before July 1, 1985, see NRS 209.433.
- Concurrent to Charge - All 9 phases must be complete prior to obtaining 45 credits. Exception: if inmate is moved prior to completion, inmate will receive 15 credits for phases 1-3.

Approved By: _____ Name and Title

_____ Date

EXHIBIT F

EXHIBIT F

DECLARATION OF KRISTY RODRIGUEZ

STATE OF NEVADA)
 : ss.
CARSON CITY)

I, KRISTY RODRIGUEZ, hereby states, based on personal knowledge and/or information and belief, that the assertions of this declaration are true:

1. I am employed by the State of Nevada Department of Corrections (NDOC) as a Program Officer III in the Offender Management Division. I have been employed by the Nevada Department of Corrections (NDOC) for over seventeen years.

2. Inmate Dustin Barral, #1108615, is currently incarcerated at the Lovelock Correctional Center.

3. The Nevada Attorney General's Office asked me to investigate claims by Barral of educational credits owed for his completion of an associate degree in pastoral ministry from the International Christian College and Seminary, and meritorious credits for exceptional GPA.

4. I consulted with the Education Department to determine what credits he was approved to receive. Barral was not eligible for educational or meritorious credits because International Christian College and Seminary is not an accredited college.

5. Barral has already received credit for a first and second degree; therefore, additional educational and meritorious credits are awarded at the Director's discretion.

Pursuant to NRS 53.045, Declarant herein certifies, under penalty of perjury, that the foregoing is true and correct.

Dated this 6 day of October, 2023.



KRISTY RODRIGUEZ

EXHIBIT G

EXHIBIT G

ID#	0001108615	Last Name	BARRAL	Given Name 1 (First)	DUSTIN	Given Name 2	JAMES	Suffix		[DOB]	09/09/1984	Alerts	ST	↓
BK#	2017-088809	[Facility]	LCC-U1-A-15-B; ; NC				Status			ACTIVE-IN	Classification			Medium

Hearing Details

Sch. Date	Hear. Date*	Time*	Hear. Type*	Hear. Loc.*	Elig. Date	Action	Next Date	Risk Assess.	GR	Report
06/22/2023	06/22/2023	08:53	Discretionary	PAROLE BO ↓	09/27/2023 ↓	RPG: GR	09/27/2023	06/05/2023	↓ FACTORS	Order
				↑	↑				↑	Order

Sent. DetailsVotesCommentsCase Notes

CS

A	Case #	Ln#	Ln #	Cnt	Sent. Date	Retro Date	Max Term	Min Term	PED	MPR	PEXD	Status	C	cc
<input checked="" type="checkbox"/>	AG_1812	3		1		05/28/2013	26Y 0M 0D	10Y 4M 0D	09/27/2023	05/21/2025	11/22/2025	Active	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	C-10-269	1		1		05/28/2013	0Y 240M 0D	0Y 96M 0D				Aggregated	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	C-10-269	2	1	2		03/13/2024	0Y 72M 0D	0Y 28M 0D				Aggregated	<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	

Statute	Offense	Description	Type	Offense Date	SM Comment Text
176.035	A007	Aggregate	CAT B	07/10/2010	<input checked="" type="checkbox"/>

- My Offenders
- My Work
- My Calendar
- Offender Updates
- Offender Detail

1 Case No. 27CV-WR1-2023-0230

2 Pursuant to NRS 239B.030, the undersigned affirms that this document does not
3 contain social security numbers

4

5 IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF PERSHING

7

8 Dustin Barral,

9 Plaintiff,

10 v.

11 Tim Garrett, Warden LCC,

12 Respondent.

RESPONSE TO RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS

13 COMES NOW, Plaintiff, Dustin Barral, in prose filing his Response to
14 Warden Tim Garrett's Response to Petition for Writ of Habeas Corpus. This is made
15 and based upon all papers and pleadings on file herein and the following
16 argument.

17 ARGUMENT

18 In Warden Tim Garrett's response, he does not actually address the
19 merits of Mr. Barral's Petition for Writ of Habeas Corpus. Instead, the AG,
20 who represents him, is trying to confuse the court to the real issue at
21 hand. This is a clear cut and dry case. NRS 209.4465(3) does not
22 set any requirements on each additional degree of higher education
23 earned by the offender. The only requirement per NRS 209.4465 is that
24 it is a degree of higher education. ICCS is an institution of higher
25 education and per NRS 209.4465(3) a degree from ICCS is appropriate to
26 earn the 90 days of credit. AR803 does not conform to NRS 209.4465 as
27 it states it does. It imposes additional restrictions to NRS 209.4465 which
28 is against the law. Whether or not, if this court has the authority per

1 a writ of habeas corpus to order a change to AR803 is immaterial to
2 the fact that AR 803 exceeds NRS 209.4465 in which it is suppose to follow
3 which makes it still unlawful. Additionally, this Court would set a dangerous
4 precedent if it allows the AG's argument. Per the AG's response "The AR's
5 are permitted under the law and governed by the Director, not the court," and
6 "the Director possesses discretion over policies and procedures regarding
7 educational/meritorious credit awards, which includes the AR's." IF the AR
8 that is governed by the Director of the NDOC, who is not a part of the legislative
9 branch, is able to say that an AR can go beyond the laws of the State of
10 Nevada, is creating a dangerous precedent to allow non-elected state officials to
11 violate the separation of powers doctrine. The Director of the NDOC is not a part
12 of the NV Legislature and has no power to make or change the laws of the
13 State of Nevada. The requirement of AR803 that a higher education degree
14 be from an accredited university violates the letter and intent of NRS 209.4465
15 (3). It places additional restrictions on NRS 209.4465(3) and in turn makes AR
16 803 superior to NRS 209.4465. This is illegal and unlawful and this is the
17 crux of the issue found in Mr. Barral's Petition for Writ of Habeas Corpus (Computation
18 of Time).

19 Now to address the AG's arguments meant to confuse the Court away
20 from Mr. Barral's argument. First, the AG brings up that the Director may
21 in his discretion authorize an offender to receive credit for each higher
22 educational degree. This is not an issue in this case. Mr. Barral was denied
23 because under AR803 ICCS is not an accredited institution. IF the Court would
24 look at Exhibit 1 (Grievance filed by Plaintiff) it shows that the Director never
25 denied Mr. Barral. This is being presented to the Court to confuse the issue and
26 has no standing. For if this court rules in Mr. Barral's favor and then the
27 Director refuses to grant him credit, it would be retaliation for filing his
28 Writ of Habeas Corpus. Second, the AG states that Mr. Barral cannot receive

1 credit for his additional degree and GPA because Mr. Barral already received
2 credit for a previous degree. This is 100% false. According to the Respondent's
3 Exhibit F, Declaration of Kristy Rodriguez, Mr. Barral has earned 2 degrees
4 so far. NRS 209.4465 does not limit how many degrees an inmate can learn.
5 All it does is leave it up to the Directors discretion to approve or deny it (and
6 in all reality why would a director deny an inmate credit for pursuing his
7 education and bettering himself). Thirdly, the AG states that Mr. Barral is
8 already receiving all educational degree and meritorious credit allowed under
9 law against his aggregate maximum sentence. Again this 100% false. The
10 AG offers no proof that he has reached any limit nor does LCC/NDOC say this
11 in his grievance (see Exhibit I). Lastly, the AG claims that Mr. Barral claims
12 he's entitled to this educational degree credit but has no constitutionally protected
13 liberty interest in earning such credit. Mr. Barral did not claim he is entitled
14 to these credits. He claims he earned them diligently per NRS 209.4465.

15 CONCLUSION

16 This Court should grant Mr. Barral's Petition for Writ of Habeas Corpus because
17 the LCC/NDOC are not following NRS 209.4465(3) as it is written and proof has
18 been given to this court as to this violation.

19 Dated this 16 day of October, 2023

20
21 

22 Dustin Barral #1108615

23 LCC

24 1200 Prison Rd

25 Lovelock, NV 89419

26 Plaintiff in Pro Se

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing
RESPONSE TO RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS to the
following addresses on this 16 day of October, 2023; by
placing same in the US mail via the Law Library staff pursuant to
NRCF 5(b):

Warden Tim Garrett
LCC
1200 Prison Rd
Lovelock, NV 89419

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

Dated this 16 day of October, 2023.



Dustin Barral #1108615
LCC
1200 Prison Rd
Lovelock, NV 89419
Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF NEVADA IN AND
FOR THE
COUNTY OF [LANDER/MINERAL/PERSHING]

Dustin Barral

Plaintiff

VS.

NOTICE OF CHANGE OF ADDRESS

Warden Tim Garnet, LLC

Respondent

Notice is hereby given that the address of Plaintiff, Dustin Barral,

In pro se, has been changed to the following:

Dustin Barral

8120 W. Gilmore Ave
Las Vegas, NV 89129

All further correspondence should be addressed to the Plaintiff at the
new address above..

Dated this 25 day of October, 20 23.

Dustin Barral # 1106615

Lovelock Correctional Center

1200 Prison Road

Lovelock, Nevada 89419

Phone/Fax: N/A

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing Notice Change of Address to the below address (es) on this 25 day of October, 20 23,

By placing same in the U.S. Mail via prison law library staff:

Warden Tim Garrett
LCC
1200 Prison Rd
Lovelock, NV 89419

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

[Signature]
Dustin Barral # 1108615

Lovelock Correctional Center

1200 Prison Road

Lovelock, Nevada 89419

Phone/Fax: N/A

Plaintiff In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding Notice Change of Address does not contain the social security numbers of any person.

Dated this 25 day of October, 20 23.

[Signature]
Dustin Barral
Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain social security numbers

IN THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,
Plaintiff,

VS.

NOTICE OF CHANGE OF ADDRESS

TIM GARRETT, WARDEN LCC,
Respondent.

Notice is hereby given that the address of the Plaintiff, Dustin Barral, in pro se, has been changed to the following:

Dustin Barral
1661 E. 6th St. 254
Reno, NV 89512
(775)512-9060
Dustinbarral2169@gmail.com

All further correspondence should be addressed to the plaintiff at the new address above.

Dated this 16 day of November , 2023

Dustin Barral
Dustin Barral
1661 E. 6th St. 254
Reno, NV 89512
Plaintiff in Pro Se

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pursuant to NRCP 5b:

1200 Prison Rd

Nevada Attorney General

100 N. Carson St.

Carson City, NV 89701

Dated this 16 day of November 2023

Dustin Barral
Dustin Barral
1661E 6th St. 254
Reno, NV 89512
Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.0303, the undersigned affirms that this document does not contain social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

Dustin Barral,

Plaintiff,

vs.

MOTION TO PROCEED IN FORMA PAUPERIS

Warden Tim Garrett, LCC,

Respondent.

COMES NOW Plaintiff, Dustin Barral, in pro se, and moves the Court for an order granting him leave to proceed in the above-entitled action without paying the costs and/or security of proceeding herein. Pursuant to NRS 12.015, and based upon the information contained in this Application and Affidavit, I request permission from this Court to proceed without paying filing fees, or other costs and fees as provided in NRS 12.015 because I lack sufficient financial ability.

I understand that if approved, the order allowing me to proceed in forma pauperis will be valid for one year. I will be required to file a new Application to Proceed in Forma Pauperis if I need further filing fees and court costs and fees waived after one year.

EMPLOYMENT - I am currently unemployed.

Personal Income - \$291- Snap benefits

Household Information -1 Adult

Household Income - NA

1 **Monthly Expenses** - Rent- \$800 Cell phone- \$150 Food- \$291Total- \$1241

2 **Assets** - Checking Account- \$66.50

3 **Declaration in Support of Request to Proceed In Forma Pauperis**

4 Briefly explain your current financial situation and why you are unable to pay the filing fee. For
5 example, if you are unemployed explain why, for how long, and what efforts you are making to
6 obtain employment. If you are temporarily living with a friend or relative explain for how long and
7 how they help you financially.
8

9 I have just gotten released from prison on 11/8/2023. I have no job and am on Medicaid and
10 SNAP. My mother, Susan Zupancic, is the one paying my bills. I am making every effort to obtain
11 employment. I have already filled out over 125 applications and only had 3 interviews.
12

13
14 Dated this 8th day of December, 2023
15

16 Dustin Barral

17 Dustin Barral
18 1661 E 6th St 254
19 Reno, NV 89512
20 7755129060
21 dustinbarral2169@gmail.com
22 Plaintiff in Pro Se
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1
2 **CERTIFICATE OF SERVICE**

3 I do certify that i mailed a true and correct copy of the foregoing Motion to Proceed In Forma
4 Pauperis to the below address(es) on this 8 day of December 2023, by sending it through first class
5 mail pursuant to NRCP 5b:
6

7 Tim Garrett, Warden LCC
8 1200 Prison Rd
9 Lovelock, NV 89419

10 Nevada Attorney General
11 100 N. Carson St.
12 Carson City, NV 89701

13
14 Dated this 8 day of December 2023

15 Dustin Barral
16 Dustin Barral
17 1661E 6th St. 254
18 Reno, NV 89512
19 Plaintiff in Pro Se
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Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.0303, the undersigned affirms that this document does not contain social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

Dustin Barral,

Plaintiff,

vs.

REQUEST FOR SUBMISSION

Warden Tim Garrett, LCC,

Respondent.

COMES NOW Plaintiff, Dustin Barral, in pro se, and moves the Court to Submit the Petition for Writ of Habeas Corpus (Computation of Time) for decision.

Dated this 8th day of December, 2023

Dustin Barral

Dustin Barral
1661 E 6th St 254
Reno, NV 89512
7755129060
dustinbarral2169@gmail.com
Plaintiff in Pro Se

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

Dustin Barral
Dustin Barral
1661E 6th St. 254
Reno, NV 89512
Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS (TIME
COMPUTATION)**

THIS MATTER comes before the Court on Petitioner, DUSTIN BARRAL's, Petition for Writ of Habeas Corpus (Time Computation). This Court has reviewed all pleadings, documents and exhibits on file in the above-entitled matter. Based on this review, the Court makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

Petitioner was sentenced on September 18th, 2017 to an aggregated sentence of 124 months to 312 months for Count 1: Attempted Sexual Abuse, under 14 years of age and Count 2: Child Abuse, Neglect or Endangerment; both Category B Felonies. Petitioner is

1 currently released on Parole and not incarcerated with the Nevada Department of Corrections
2 (NDOC).

3 In Eleventh Judicial District Court Case No. 27CV-WR1-2023-0059, The Petitioner
4 filed his first Petition for Writ of Habeas Corpus on February 21, 2023, and subsequently
5 filed a Supplemental Brief. That matter is currently on appeal before the Nevada Supreme
6 Court in Case No. 87139.

7 While The Petitioner's other state habeas case remained pending, Petitioner filed this
8 Writ of Habeas Corpus (Computation of Time) on August 22nd, 2023. Petitioner's complaint
9 alleges that the NDOC failed to credit time off his sentence with regard to his earning of an
10 advanced degree, specifically an associate degree in Pastoral Ministry from the International
11 Christian College and Seminary. The Petitioner's latest associate degree in Pastoral Ministry
12 is the subject of his challenge in the instant Petition. The Petitioner obtained this degree from
13 the International Christian College and Seminary, which is not an accredited college.
14 Furthermore, NDOC did not approve The Petitioner to receive credit for his associate degree
15 from that institution.

16 **ARGUMENT**

17 Petitioner further claims that NDOC is required through NRS 209.4465 to credit his
18 time based on his accumulation of Advanced degrees. Petitioner argues that this is
19 mandatory and not discretionary; that the legislature has drafted the Statutes and the NDOC
20 does not have the authority to alter them.

21 **CONCLUSIONS OF LAW**

22 NRS 209.4465 applies to the Petitioner. NRS 209.4465 explicitly specifies that
23 educational and meritorious credit for additional higher education degrees is not an automatic
24

1 award of time credits; rather, such credit is subject to the restrictions and regulations
2 implemented by the Director. The following indicates the case:

3 3. The Director may, in his or her discretion, authorize an offender to
4 receive a maximum of 90 days of credit for each additional degree of higher
education earned by the offender....

5 5. The Director may allow not more than 90 days of credit each year for an
6 offender who engages in exceptional meritorious service.

7 The Director set forth the requirements to receive educational and meritorious credits
8 in NDOC Administrative Regulation (“AR”) 803. AR 803 reiterates that credit for “each
9 additional higher educational degree is at the Director’s discretion,” and that credit awards
10 for “exceptional meritorious service and achievement credits” such as GPA are also at the
11 Director’s discretion. AR 803.01(1)(A); AR 803.01(4). Only programs/degrees from
12 accredited correspondence courses are eligible for credit. AR 803.01(1)(B). Even “approved
13 classes and programs” credits are subject to the Director’s discretion. AR 803.01(8). AR
8.03.01 specifically provides:

14 1. Educational Degree Credits will be awarded per the requirements of
15 Nevada Revised Statutes (NRS) 209.433- 209.4465.

16 A. Credit for each additional higher educational degree is at the
17 Director’s discretion. If granted, a maximum of 90 credits will be
awarded.

18 B. Non-accredited correspondence courses are not eligible for
19 credit awards.

20 The Petitioner therefore cannot receive credit for his additional associate degree and
21 GPA. Since The Petitioner’s additional degree is from an unaccredited and unapproved
22 institution, he may not receive educational or meritorious credit for his degree and GPA. See
23 NRS 209.4465(3); AR 803.01(1)(B); AR 803.01(04).

1 The Court further has determined that the Petitioner’s argument regarding entitlement
2 to educational degree credits is misguided, as he has no constitutionally protected liberty
3 interest in earning such credits. In Nevada, the statutes relating to work/study credits create
4 only the possibility of earning an earlier release; they create no constitutionally protected
5 liberty interest. Inmates must actually perform work or complete approved study programs to
6 earn work/study credits. *See Vickers v. Dzurenda*, 433 P.3d 306, 308 (Nev. App. 2018)
7 (stating that “to be diligent in labor, one must actually apply oneself to the labor.”). Thus, the
8 NDOC is not violating The Petitioner’s constitutional rights in imposing restrictions on
9 educational/meritorious credits from unapproved study programs.

10 The Petitioner’s request for a Court order to force the NDOC to change its
11 Administrative Regulations is non-cognizable. The Director possesses discretion over
12 policies and procedures regarding educational/meritorious credit awards, which includes the
13 Administrative Regulations. See NRS 209.4465(3), (5); see also NRS 209.4465(6). The
14 Administrative Regulations are permitted under the law and governed by the Director, not the
15 Court. As such, a petition for writ of habeas corpus – which is specifically limited to
16 challenges regarding an inmate’s judgment, conviction, or the NDOC’s computation of time
17 – is not an appropriate vehicle for The Petitioner to seek a change to the Administrative
18 Regulations.

19 Petitioner argues that it is universally known that the state government creates laws and
20 codifies them as statutes and that it is also common that the state government will assign
21 organizations to create rules by which to implement these statutes.

22 That is the case here. NRS 209.4465(6) specifically directs the ‘Board’ to adopt
23 regulations by which to administer credits earned by inmates while incarcerated. The Board
24

1 shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to
2 this section. NRS 209.4465(6). Board is defined by NRS 209.021 as the Board of State
3 Prison Commissioners and NRS 209.101 creates the Department of Corrections and Board.
4 The statutes being created through the power of the Nevada Constitution Section 21, Article
5 5.

6 These rules have manifested as Nevada Department of Corrections Administrative
7 Regulations, known as AR's. AR 803.01 (1) A & B directly contradicts Petitioner's claim
8 that applying credit to time served is mandatory.

9 **ORDERS**

10 The Court deeming itself fully informed,

11 **IT IS HEREBY ORDERED** that The Petitioner's petition for Writ of Habeas
12 Corpus is denied.

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR1-2023-0230

*Pursuant to NRS 239B.03-0, the undersigned affirms
that this document does not contain social security numbers.*

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs,

TIM GARRETT, WARDEN LCC,

Respondent.

**NOTICE OF ENTRY
OF ORDER**

PLEASE TAKE NOTICE that the Court entered ORDER DENYING PETITION
FOR WRIT OF HABEAS CORPUS on January 24, 2024, a true and correct copy of which
is attached to this notice.

If this is a final order and if you wish to appeal to the Nevada Supreme Court, you
must file a Notice of Appeal with the Clerk of this Court within 33 days after the date this
notice is mailed/electronically served to you.

DATED this 24th day of January 2024.

KATRENA M. MARTIN
CLERK OF THE COURT

By /s/ Adriana Ramos
Deputy

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Eleventh Judicial District Court, and that on the date below, I caused to be served through the United States Postal Service, hand delivery and/or by electronic mail, a true and correct copy of the ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS on the following:

Dustin Barral, Petitioner
Electronic Service

Elsa Felgar
Nevada Attorney General's Office
Electronic Service

DATED this 24th day of January 2024.

/s/ Adriana Ramos
Deputy Clerk

INDEX OF EXHIBITS

Exhibit 1

Copy of order

6 pages

EXHIBIT 1

EXHIBIT 1

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Petitioner,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS (TIME
COMPUTATION)**

THIS MATTER comes before the Court on Petitioner, DUSTIN BARRAL's, Petition for Writ of Habeas Corpus (Time Computation). This Court has reviewed all pleadings, documents and exhibits on file in the above-entitled matter. Based on this review, the Court makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

Petitioner was sentenced on September 18th, 2017 to an aggregated sentence of 124 months to 312 months for Count 1: Attempted Sexual Abuse, under 14 years of age and Count 2: Child Abuse, Neglect or Endangerment; both Category B Felonies. Petitioner is

1 currently released on Parole and not incarcerated with the Nevada Department of Corrections
2 (NDOC).

3 In Eleventh Judicial District Court Case No. 27CV-WR1-2023-0059, The Petitioner
4 filed his first Petition for Writ of Habeas Corpus on February 21, 2023, and subsequently
5 filed a Supplemental Brief. That matter is currently on appeal before the Nevada Supreme
6 Court in Case No. 87139.

7 While The Petitioner's other state habeas case remained pending, Petitioner filed this
8 Writ of Habeas Corpus (Computation of Time) on August 22nd, 2023. Petitioner's complaint
9 alleges that the NDOC failed to credit time off his sentence with regard to his earning of an
10 advanced degree, specifically an associate degree in Pastoral Ministry from the International
11 Christian College and Seminary. The Petitioner's latest associate degree in Pastoral Ministry
12 is the subject of his challenge in the instant Petition. The Petitioner obtained this degree from
13 the International Christian College and Seminary, which is not an accredited college.
14 Furthermore, NDOC did not approve The Petitioner to receive credit for his associate degree
15 from that institution.

16 **ARGUMENT**

17 Petitioner further claims that NDOC is required through NRS 209.4465 to credit his
18 time based on his accumulation of Advanced degrees. Petitioner argues that this is
19 mandatory and not discretionary; that the legislature has drafted the Statutes and the NDOC
20 does not have the authority to alter them.

21 **CONCLUSIONS OF LAW**

22 NRS 209.4465 applies to the Petitioner. NRS 209.4465 explicitly specifies that
23 educational and meritorious credit for additional higher education degrees is not an automatic
24

1 award of time credits; rather, such credit is subject to the restrictions and regulations
2 implemented by the Director. The following indicates the case:

3 3. The Director may, in his or her discretion, authorize an offender to
4 receive a maximum of 90 days of credit for each additional degree of higher
education earned by the offender....

5 5. The Director may allow not more than 90 days of credit each year for an
6 offender who engages in exceptional meritorious service.

7 The Director set forth the requirements to receive educational and meritorious credits
8 in NDOC Administrative Regulation (“AR”) 803. AR 803 reiterates that credit for “each
9 additional higher educational degree is at the Director’s discretion,” and that credit awards
10 for “exceptional meritorious service and achievement credits” such as GPA are also at the
11 Director’s discretion. AR 803.01(1)(A); AR 803.01(4). Only programs/degrees from
12 accredited correspondence courses are eligible for credit. AR 803.01(1)(B). Even “approved
13 classes and programs” credits are subject to the Director’s discretion. AR 803.01(8). AR
8.03.01 specifically provides:

14 1. Educational Degree Credits will be awarded per the requirements of
15 Nevada Revised Statutes (NRS) 209.433- 209.4465.

16 A. Credit for each additional higher educational degree is at the
17 Director’s discretion. If granted, a maximum of 90 credits will be
awarded.

18 B. Non-accredited correspondence courses are not eligible for
19 credit awards.

20 The Petitioner therefore cannot receive credit for his additional associate degree and
21 GPA. Since The Petitioner’s additional degree is from an unaccredited and unapproved
22 institution, he may not receive educational or meritorious credit for his degree and GPA. See
23 NRS 209.4465(3); AR 803.01(1)(B); AR 803.01(04).

1 The Court further has determined that the Petitioner’s argument regarding entitlement
2 to educational degree credits is misguided, as he has no constitutionally protected liberty
3 interest in earning such credits. In Nevada, the statutes relating to work/study credits create
4 only the possibility of earning an earlier release; they create no constitutionally protected
5 liberty interest. Inmates must actually perform work or complete approved study programs to
6 earn work/study credits. *See Vickers v. Dzurenda*, 433 P.3d 306, 308 (Nev. App. 2018)
7 (stating that “to be diligent in labor, one must actually apply oneself to the labor.”). Thus, the
8 NDOC is not violating The Petitioner’s constitutional rights in imposing restrictions on
9 educational/meritorious credits from unapproved study programs.

10 The Petitioner’s request for a Court order to force the NDOC to change its
11 Administrative Regulations is non-cognizable. The Director possesses discretion over
12 policies and procedures regarding educational/meritorious credit awards, which includes the
13 Administrative Regulations. See NRS 209.4465(3), (5); see also NRS 209.4465(6). The
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16 challenges regarding an inmate’s judgment, conviction, or the NDOC’s computation of time
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3 Prison Commissioners and NRS 209.101 creates the Department of Corrections and Board.
4 The statutes being created through the power of the Nevada Constitution Section 21, Article
5 5.

6 These rules have manifested as Nevada Department of Corrections Administrative
7 Regulations, known as AR's. AR 803.01 (1) A & B directly contradicts Petitioner's claim
8 that applying credit to time served is mandatory.

9 **ORDERS**

10 The Court deeming itself fully informed,

11 **IT IS HEREBY ORDERED** that The Petitioner's petition for Writ of Habeas
12 Corpus is denied.

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: DUSTIN BARRAL VS TIM GARRETT, WARDEN LCC

Case Number: 27CV-WR1-2023-0230

Type: Order

It is so Ordered.

Judge Shirley

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this document does not contain social security numbers

IN THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Plaintiff,

VS.

NOTICE OF APPEAL

TIM GARRETT, WARDEN LCC,

Respondent.

NOTICE IS GIVEN that the Plaintiff, Dustin Barral, in pro se, hereby appeals to the Nevada Supreme Court the ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS (TIME COMPUTATION) filed/entered on or about the 24th day of January 2024, in the above entitled court.

Dated this 2nd day of February 2024.



Dustin Barral
1661 E 6th St 254
Reno, NV 89512
7755129060
dustinbarral2169@gmail.com

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing Notice of Appeal to the below address(es) on this 2nd day of February 2024, by sending it through first class mail pursuant to

NRCP 5b:

Tim Garrett, Warden LCC

1200 Prison Rd

Lovelock, NV 89419

Nevada Attorney General

100 N. Carson St.

Carson City, NV 89701

Dated this 2nd day of February 2024



Dustin Barral
1661E 6th St. 254
Reno, NV 89512
Plaintiff in Pro Se

Case No. 27CV-WR1-2023-0230

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

DUSTIN BARRAL,

Appellant,

vs.

TIM GARRETT, WARDEN LCC,

Respondent.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Dustin Barral

2. Identify the judge issuing the decision, judgment or order appealed from:

Honorable Jim C. Shirley

3. Identify each appellant and the name and address of counsel for each appellant:

Dustin Barral, Pro Per
1661 E. 6th Street #254
Reno, NV 89512

- 1 4. Identify each respondent and the name and address of appellate counsel, if
2 known, for each respondent (if the name of a respondent's appellate counsel
3 is unknown, indicate as much and provide the name and address of that
4 respondent's trial counsel):

5 Respondent: Tim Garrett, Warden
6 Counsel: Elsa Felgar
7 Office of the Attorney General
8 100 North Carson Street
9 Carson City, NV. 89701-4717

- 10 5. Indicate whether any attorney identified above in response to question 3 or
11 4 is not licensed to practice law in Nevada and, if so whether the district
12 court granted that attorney permission to appear under SCR 42 (attach a
13 copy of any district court order granting such permission):

14 N/A

- 15 6. Indicate whether appellant was represented by appointed or retained counsel
16 in the district court:

17 No, Pro Per

- 18 7. Indicate whether appellant is represented by appointed or retained counsel
19 on appeal:

20 No

- 21 8. Indicate whether appellant was granted leave to proceed in forma pauperis,
22 and the date of entry of the district court order granting such leave:

23 No

- 24 9. Indicate the date the proceedings commenced in the district court (e.g., date
complaint, indictment, information, or petition was filed):

Petition for Writ of Habeas Corpus (Computation of Time) was filed on
8/22/2023.

10. Provide a brief description of the nature of the action and result in the
district court, including the type of judgment or order being appealed and
the relief granted by the district court:

Petition for Writ of Habeas Corpus (Computation of Time) was filed on
8/22/2023. Response to Petition for Writ of Habeas Corpus was filed
10/9/2023. Order Denying Petition for Writ of Habeas Corpus (Time

Computation) was filed 1/24/2024. Notice of Entry of Order was filed 1/24/2024. Notice of Appeal was filed 2/1/2024.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

This case has not previously been appealed to the Supreme Court.

12. Indicate whether this appeal involves child custody or visitation:

No

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

No

Dated this 2nd day of February 2024.

/s/ Adriana Ramos
Deputy Court Clerk
P.O. Box H
Lovelock, NV. 89419
(775) 273-2410

Case No. 27CV-WR1-2023-0230

Supreme Court Case No. 88053

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

DUSTIN JAMES BARRAL,

Appellant,

vs.

TIM GARRETT, WARDEN LCC; AND THE
STATE OF NEVADA,

Respondents.

**ORDER DIRECTING
TRANSMISSION OF RECORD AND
REGARDING BRIEFING**


IN THE SUPREME COURT OF THE STATE OF NEVADA

DUSTIN JAMES BARRAL,
Appellant,
vs.
TIM GARRETT, WARDEN LCC; AND
THE STATE OF NEVADA,
Respondents.

No. 88053

FILED

FEB 12 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DIRECTING TRANSMISSION OF
RECORD AND REGARDING BRIEFING*

This court has concluded that its review of the complete record is warranted. *See* NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. *See* NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. *See* NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

_____, C.J.

cc: Dustin James Barral
Attorney General/Carson City
Pershing County District Attorney
Clerk of the Court/Court Administrator

1 Case No. 27CV-WR1-2023-0230

2 Supreme Court Case No. 88053

3 *Pursuant to NRS 239B.030, the undersigned affirms that this*
4 *Document does not contain the social security numbers.*

5
6 IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF PERSHING

8 DUSTIN JAMES BARRAL,

9 Appellant,

10 vs.

11 TIM GARRETT, WARDEN LCC; AND THE
12 STATE OF NEVADA

13 Respondents.

CERTIFICATE

14 State of Nevada)
15 : ss.
County of Pershing)

16 I, KATE MARTIN, Clerk of the Court, do hereby certify that the following are
17 true and correct copies of the original documents in the above-entitled case, which was
18 appealed to the Supreme Court.

19 IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the
20 seal of said Court, at Lovelock, Nevada, this 4th day of March 2024.

21 KATE MARTIN
Eleventh Judicial District Court Clerk

22 By: Adriana Ramos
23 Deputy Clerk
24

**ELEVENTH JUDICIAL
DISTRICT COURT**

Jim C. Shirley
District Judge
Tel. (775) 273-2105
Fax (775) 273-4921



Kate Martin
Court Administrator
Tel. (775) 273-5128
kmartin@11thjudicialdistrictcourt.net

March 4, 2024

Elizabeth Brown
Supreme Court Clerk
201 South Carson Street
Carson City, NV 89701-4702

Re: Notice of Appeal / 27CV-WR1-2023-0230
Dustin James Barral vs Tim Garrett, Warden LCC; and The State of Nevada

Enclosed, please find the Record on Appeal for the above-entitled matter as ordered by the Supreme Court on February 12, 2024.

Should you have any questions or require additional information, please do not hesitate to contact the Court.

KATE MARTIN
Eleventh Judicial District Court Clerk

By: *Adrian Ramo*
Deputy Clerk

/km
Encl.

☐ **Pershing County**
P.O. Box H
Lovelock, NV 89419
Tel. (775) 273-2410
Fax: (775) 273-2434

☐ **Lander County**
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P.O. Box 2390
Hawthorne, NV 89415-0400
Tel. (775) 945-0738
Fax: (775) 945-0706