

Judicial District Court
of the
State of Nevada

Order of
Judge

Directing
Response
Of
District Attorney

Shelley Hooper

2024 OCT 11 11:02

1 Case No.

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL

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Petitioner,

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vs.

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ORDER DIRECTING RESPONSE

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WARDEN NETHANJAH BREITENBACH,
LOVELOCK CORRECTIONAL CENTER
Respondent.

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This matter is before the Court on Petitioner, (hereinafter

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) Petition for Writ of Habeas Corpus, filed on October 2, 2024.

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was previously represented by Jacob Sommer, Esq. of the Churchill County

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Public Defender's Office, but now represents himself in proper person. was

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REDATED

Insert Personal

CASE HISTORY

Here

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The Court has reviewed the Petition and has determined that a response would assist the
Court in determining whether is entitled to any relief. Accordingly,

1 Respondent shall, within 45 days after the date of this order, answer or otherwise respond to the
2 Petition in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

3 Under NRS 34.750, the Court may appoint counsel to represent a petitioner "if the court
4 is satisfied that the allegation of indigency is true and the petition is not dismissed summarily."
5 In making its determination, the Court may consider "the severity of the consequences facing the
6 petitioner," and whether "the issues presented are difficult," "the petitioner is unable to
7 comprehend the proceedings," or "counsel is necessary to proceed with discovery." NRS 34.750.

8 In this case, the Court makes the following findings:

9 1. Severity of the Sentence:

10 The consequences of the sentence are severe. The sentence in Count 1 is a life sentence
11 with the possibility of Parole after 25 years and Count 2 is a consecutive sentence of 8-20
12 years. This factor weighs in favor of the Court considering the Petitioner's request to
13 appoint counsel.

14 2. The Difficulty of the issues presented and whether they are so difficult that the
15 petitioner is unable to comprehend the proceedings.

16 The matters presented in the Petition are not complex at all. It contains three grounds for
17 relief:

- 18 a. Ground 1 alleges a jurisdictional defect, and that Counsel was ineffective in
19 failing to raise this issue.
- 20 b. Ground 2 alleges that the Court lacked subject matter jurisdiction violating
21 Petitioner's Due Process Rights as guaranteed by the 14th Amendment to the
22 United States Constitution.
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1 c. Ground 3 alleges that the Nevada Supreme Court has “Struck Down” the entire
2 NRS scheme and that Petitioner’s rights as guaranteed by the 14th Amendment
3 to the United States Constitution were violated.

4 The matters to be resolved are not complex. The petitioner has set forth, in detail,
5 the three grounds for which he seeks relief. He has supported the petition with nine
6 exhibits. The allegations contained in all three grounds are simple and direct. The petition
7 on its face demonstrates that the petitioner understands each ground and can comprehend
8 the proceedings. An analysis of this factor weighs against the need to appoint counsel.

9 3. Is counsel necessary to proceed with discovery

10 a. None of the issues raised in grounds 1, 2 or 3 necessitate the need for counsel
11 to proceed with discovery. As such this factor weighs against the need to
12 appoint counsel.

13 Weighing the factors listed above, the simple and direct issues presented in
14 grounds 1, 2 and 3, and the fact that discovery is not necessary based on the claims raised,
15 the Court finds that these considerations outweigh the other factors listed above. As such,
16 the Court finds that in analyzing the totality of the circumstances of this case, the
17 appointment of counsel is not necessary in this case. . . . () Petition consists of
18 3 straightforward claims summarized above, therefore Petitioner’s request for the
19 appointment of counsel is DENIED.

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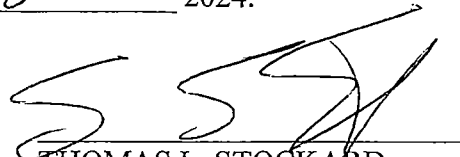
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1 **GOOD CAUSE APPEARING IT IS HEREBY ORDERED**

- 2 1. The Churchill County District Attorney's Office shall file a response to the Petition within
3 45 days of the date of this order.
4 2. Petitioner's request for appointment of counsel is Denied.

5 IT IS SO ORDERED.

6 Dated this 20th day of November 2024.

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9 THOMAS L. STOCKARD
DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned, an employee of the Tenth Judicial District Court, hereby certifies that on the 20 day of November, 2024, I served the foregoing **ORDER DIRECTING RESPONSE** on the parties, as noted below:

Lovelock Correctional Center
1200 Prison Rd.
Lovelock, NV 89419

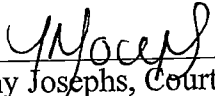
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

Jeffrey H. Weed Esq.
Deputy District Attorney
165 N. Ada Street
Fallon, NV 89406

Attorney General
Heroes Memorial Building
100 North Carson Street
Carson City, NV 89710-4717

Jacob N. Sommer Esq. ~ *Courtesy Copy*
Electronic Service Accepted
For Court Generated Documents Only

DATED this 20 day of November, 2024.



Tiffany Josephs, Court Administrator

Subscribed and Sworn to before me
this 20 day of November, 2024.



Deputy Court Clerk