

Johnny E, McMahon #1022589
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
In Proper Person

IN THE EIGHTH JUDICIAL DISTRICT COURT
IN AND FOR THE STATE OF NEVADA

JOHNNY E. McMAHON,
Petitioner,

Case No:

VS.

THE STATE OF NEVADA,
LAS VEGAS TOWNSHIP
JUSTICE COURT, EIGHTH
JUDICIAL DISTRICT COURT,
ELEVENTH JUDICIAL DISTRICT
COURT, CLARK COUNTY DIST.
ATTORNEY'S OFFICE, LAS
VEGAS METROPOLITAN POLICE
DEPARTMENT, NEVADA
DEPARTMENT OF CORRECTIONS,
AND WARDEN BREITENBACH,
REAL PARTY IN INTEREST,

MOTION FOR BAIL RELEASE
PENDING APPEAL IN DISTRICT
COURT PURSUANT TO § 3143
AND FED. R. APP. P. 9(b).

Respondents.

COMES NOW, McMahon, Petitioner, pro se, moves this
Honorable Court to GRANT the above captioned Motion as
pled. Based upon attached exhibits and those on file with
the Clerks of the Court.

STATEMENT OF CASE/FACTS

- 1). McMahon was released on own recognizance bail on Dec. 15, 2005 based upon the unwarranted arrest and the State failing to present a proper charging instrument at the initial appearance to hold McMahon to any crime.
- 2). McMahon remained on bail until May 08, 2008 and made every scheduled court appearance. McMahon had no record of any prior felony convictions in the State of Nevada.
- 3). McMahon is not a flight risk or a threat to the public or anyone and is 74 years of age suffering from neurological disorder. McMahon has been a tax paying citizen of Nevada for over 50 years.
- 4). McMahon's case of actual and factual innocence and wrongful conviction is both compelling and overwhelming in support of prima facie evidence on file and has resulted in his false imprisonment for over 6,530 days and counting.

REASONS FOR GRANTING RELEASE

The Bail Reform Act (BRA) created a presumption against release pending appeal motion. This Court has been presented with an Emergency Motion to act in the Writ of Mandamus, as the court of origin, Las Vegas Township Justice Court failed to legally obtain subject-matter jurisdiction to hold McMahon

to any crime and the State Respondents have been committing a fraud upon the court, asserting ad nauseum, in both open court and in opposition brief for the past 16 years, that they are in possession of a valid arrest warrant from 2005 for McMahon and that a Probable Cause Gernstein Hearing was conducted in Justice Court between Dec. 12-15, 2005, which is belied by the record of the Clerk of the Court, as no such documents are on file with the custodian of records, and neither can the State Respondents produce a copy of any such arrest warrant or court minutes and trial transcripts of a Probable Cause Gernstein Hearing being conducted. Nor can the State Respondents present any record of a refiling for an arrest warrant pursuant to NRS 173.035 to properly arrest McMahon, as such subject-matter jurisdiction must be proven first to exist or the case constitutes as a void judgment and Bail Release and exoneration are automatic.

The district court must act on all release applications to assess the strength of the case pursuant to § 3145(c) and Fed. R. App. P. 9(b). *U.S. v. Clark*, 917 F2d 177, 179 (5th Cir 1990). (Appeal court obligated to independently assess the strength of convicted defendant's motion for release pending appeal pursuant to § 3143(b) and Fed. R. App. P. 9(c)). As such this reviewing court is compelled to act immediately. *U.S. v. Zinny*, 857 F3d 97, 100 (1st Cir 2017). (Defendant entitled to prompt release on § 3143 motion).

The Circuit Court of Appeals all concur that the reviewing District Court must find that the defendant's appeal raises a "substantial question of fact and law", which equally attaches

to a jurisdictional review to certify the question as to subject-matter jurisdiction and the States legal standing. The Courts went on to hold the substantial question of law - is it more likely than not that the defendant will be given a new trial or exoneration?

The Ninth Circuit Court of Appeals has weighed in on the question of law holding that the petitioner's case must be one that is "fairly debatable" or "fairly doubtful" to obtain a certificate of probable cause or certificate of appealability from the district court. In *U.S. v. Handy*, 761 F2d 1279, 1284 (9th Cir 1985) held (defendant's application for release pending appeal improperly denied because defendant's appeal presented issues that made reversal likely). As such absent the reviewing court certifying the question by physically inspecting the requisite evidence from the Clerk of the Court to establish subject-matter jurisdiction any Order denying appeal is a collateral order and appealable as it brings into question the reviewing court having jurisdiction. See *U.S. v. Loya*, 23 F3d 1529, 1530 (9th Cir 1994). (defendant must be released and free on own recognizance) as McMahon has no prior felony convictions in Nevada.

Accordingly, McMahon respectfully requests this Honorable Court Grant the Motion For Bail Release Pending Appeal in this Court on own recognizance pursuant to § 3143 and Fed. R. App. P. 9(b).

IT IS SO PRAYED.

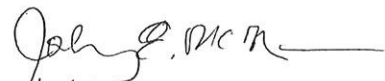
Dated: day of 2025.

Respectfully submitted,
Johnny E. McMahon
Johnny E. McMahon, Pro se

VERIFICATION/AFFIRMATION NRS 239.030

McMahon declares under penalty of perjury that the following and foregoing statements, evidence and pleading is true and accurate to the best of his ability and possesses first-hand knowledge of the truth and accuracy of the events and that no documents contain the social security number of anyone.

Dated: day of , 2025.

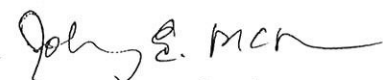

Johnny E. McMahon

CERTIFICATE OF SERVICE

McMahon declares that a true and correct copy of Motion For Bail Release Pending Appeal in District Court Pursuant to § 3143 and Fed. R. App. P. 9(b), was placed in the U.S. mail postage pre-paid on day of , 2025 to:

Aaron Ford
Attorney General
State of Nevada
100 N. Carson St.
Carson City, NV 89701

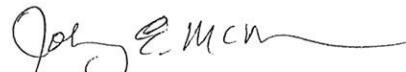
Clark County District Attorney's Office
Steven B. Wolfson
200 Lewis Ave.
Las Vegas, NV 89101


Johnny E. McMahon
Prose

VERIFICATION/AFFIRMATION NRS 239.030

McMahon declares under penalty of perjury that the following and foregoing statements, evidence and pleading is true and accurate to the best of his ability and possesses first-hand knowledge of the truth and accuracy of the events and that no documents contain the social security number of anyone.

Dated: 4 day of April, 2025.

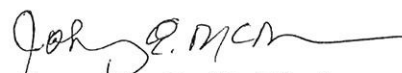

Johnny E. McMahon

CERTIFICATE OF SERVICE

McMahon declares that a true and correct copy of Motion for Enlargement of Time to Stay and Abey the Writ of Mandamus and Evidentiary Hearing for Ninety Days to Secure Competent Law Firms and Legal Representation to Eliminate Ex Parte Hearings, was placed in U.S. mail postage pre-paid on 4 day of April, 2025 to:

Aaron Ford
Attorney General
State of Nevada
100 N. Carson St.
Carson City, NV 89701

Clark County District Attorney's Office
Steven B. Wolfson
200 Lewis Ave.
Las Vegas, NV 89101


Johnny E. McMahon
Pro se

Case No.

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

JOHNNY E. McMAHON,
Petitioner,

vs.

THE STATE OF NEVADA,
LAS VEGAS TOWNSHIP
JUSTICE COURT, EIGHTH
JUDICIAL DISTRICT COURT,
CLARK COUNTY DISTRICT
ATTORNEY, LAS VEGAS
METROPOLITAN POLICE
DEPARTMENT, NEVADA
DEPARTMENT OF CORRECTIONS,
AND WARDEN BREITENBACH,
REAL PARTY IN INTEREST,

Respondents.

MOTION FOR EVIDENTIARY
HEARING AND ORDER FOR CLERK
TO UNSEAL RECORD AND PRODUCE
ARREST WARRANT OF 2005 FOR
McMAHON AND ANY RECORD OF
COURT MINUTES OF A PROBABLE
CAUSE HEARING BETWEEN DEC.
12-15, 2005 IN JUSTICE COURT.

COMES NOW, McMahon, Petitioner, Pro se, in the above captioned case as pled. Being that these documents never existed to begin with this Motion is necessary to correct plain error. This Motion is based upon all papers, pleadings and documents on file herein and with the Clerk of the Court as to the following facts, points and authorities.

STATEMENT OF CASE/FACTS

McMahon strongly asserts that being State Respondents and retained convicted felon attorney, Paul Wommer, suppressed and played "hide'n'seek" with the exculpatory DNA evidence at trial to hoodwink the court and jury, color the verdict to secure a conviction, had these State prosecutors adhered to the Model Rules of Professional Conduct and not engaged in vindictive prosecutorial misconduct, to mischaracterize the evidence and misstate the true evidence, to inflame the passions of the jury claiming that McMahon's bedding, States Ex's #32-33, was 1-38,000 and 1-12,000 odds against McMahon engaging in the initial sex act, in June 2004, to tear witness accuser E.H.'s hymen, however States Ex's #32-33 were collected in Oct. 2004, some (4) four months later, inferring to the jury that McMahon and others slept on bloody bedding for four months.

The State prosecutors, at trial, went on to claim that the testimony of SAINT nurse practitioner, P.S., who physically examined E.H.'s hymen, months after the alleged sexual act using junk science analysis to claim that E.H.'s hymenal tear was consistent with a sexual assault. This junk science analysis was not confirmed by a medical physician in a second opinion, moreover E.H. informed McMahon, as testified at trial, that upon being hired as a babysitter that she was sexually active with her Afro-American boyfriend Louis. Wherefore, by virtue of State prosecutors striking foul balls and moving the goal posts to deny McMahon of a procedurally full and fair trial warrants this court to conduct an evidentiary hearing pursuant to the Nevada Supreme Courts controlling standards in *Mann v State*, 80 Nev 307, 393 P2d 141 (1984) holding (An evidentiary hearing is required if evidence is discovered to repel prior testimony of

material evidence used to impeach the witness relevant to the case), which applies to both Wommer, and State Respondents prior testimony. Wherefore unless a genetic marker DNA analysis is conducted pursuant to NRS 176.09118 to either add McMahon as a participant or eliminate McMahon to any sexual related offense. The State prosecutors fraudulent concealment of exculpatory commingled DNA evidence goes to the gravamen of the trial resulting in a guilty verdict not worthy of confidence.

To obtain an evidentiary hearing under section 2254(c)(2) the 9th Circuit Court of Appeals addressed the need for an evidentiary hearing in *James v Ryan*, 733 F3d 911, 912 (9th Cir 2013). (Petitioner entitled to evidentiary hearing because did not have opportunity to develop claim. McMahon has clearly demonstrated by supporting evidence that the factual allegations met the Courts test for an evidentiary hearing. State Respondents are obligated to disclose information that could be used to impeach gov't witnesses, especially when the witnesses testimony is an important part of gov'ts case. At trial State prosecutors flew in from the Utah Forensic Crime Lab, R.H., who claimed that the commingled DNA was 1-38,000 odds against McMahon, yet failed to disclose the true blood specimen pursuant to NRS 176.09112 as being the true blood evidence of being E.H's menstrual period discharge. Notwithstanding the fact trial attorney, Wommer, failed to impeach the States expert witness with a defense forensic expert to analyze and disclose the true biological specimen evidence.

As held in *Brady* "material evidence relevant to innocence or guilt violates due process irrespective of good faith or bad faith of the prosecution." 373 US at 87. In furtherance in *Skinner v. Switzer*, 562 US 521, 536-37, 131 S Ct 1284 (2011). ("... review the testimony of all witnesses central to the material evidence which was the crux of States

close case..." The 9th Circuit Court in *Anekwu*, 695 F3d 967, 985 (9th Cir. 2012). (If misconduct occurred courts will only reverse the conviction if the misconduct prejudiced the fairness and so "poisoned" the well that the trial's outcome was likely affected.)

Being that this court remanded the case back in a change of venue to the Eighth Judicial District Court to correct all plain error created by the Clark County District Attorney's Office, and Wommer, the degree of spite and malevolence shown to this court by State Respondents should convince this court that the Eighth Judicial District Court was given an opportunity, reflective of exhibits herein, to correct the errors and conduct an evidentiary hearing yet refused to comply with this court's order now warrants this court to conduct such an evidentiary hearing pursuant to *Townsend*, 372 US at 31, 93 Sct at 756-57. The 9th Circuit went on to hold in *E.L. Cord v Smith*, 370 F2d 418, 423 (9th Cir 1966). (There is firmly established in the laws the doctrine confirming the power of the court to set aside at any time any mandate that was procured by effecting a fraud upon the court"). All of the Circuit Courts have concurred that a petitioner is entitled to an evidentiary hearing when State court did not provide a full and fair hearing to develop facts and petitioner was diligent.

In *Hargrove v State*, 100 Nev 498, 686 P 2d 222 (1984), (When a petition for post-conviction relief raises claims supported by factual allegations which, if true, would entitle the petitioner to relief, the petitioner is entitled to an evidentiary hearing to resolve a claim of ineffective counsel and prosecutorial misconduct, the failure to raise the claim on direct appeal does not constitute waiver of the claim for purposes of post-conviction proceedings. which equally qualifies based upon external factors created

by Wommer and Judge Barker. The Nevada Supreme Court adopted a bright-line rule in *Daniels v State*, 100 Nev 579, 580, 688 P2d 315-16 (1984) the Court held that "because of the usual need for an evidentiary hearing to resolve a claim of ineffective counsel and prosecutorial misconduct, the failure to raise the claim on direct appeal does not constitute waiver of the claim for purposes of post-conviction proceedings. In *Bellamy v Cogdell*, 952 F2d 626 (2nd Cir 1991). Trial counsel who admitted physical or mental incapacity... without defendant knowing of counsels incapacity constitutes IAC *per se*. Wommer did not inform McMahon, or hundreds of other clients, of his mental deficiencies when McMahon retained him for \$25,000, of his criminal trial defense of "diminished capacity" in not knowing or understanding the law stemming from a 1991 skiing accident suffering frontal-lobe brain damage.

Notwithstanding the judicial bias of Judge Barker appointing Wommer back onto McMahon's first-direct appeal creating a clear conflict of interest. The 5th Circuit Court of Appeals addressed such a conflict in *U.S. v Greig*, 967 F2d 1018 (5th Cir 1992). (The trial court must conduct a Garcia hearing once it has been alerted of the existence of IAC, this extends to first-direct appeal of right being an integral part of the process under 6th Amendment). Again, for Judge Barker creating the conflict of and McMahon requesting a Ferratta hearing to proceed *pro se*. In forcing Wommer back onto McMahon's case to prosecute his first-direct appeal, to accept against his will a state fired appointed counsel (Wommer) as in Ferratta the California courts deprived him of his constitutional right to conduct his own defense which equally attaches to the critical stage of a denial of first right of direct-appeal, 422 US 808, 95 S Ct 2525 (1975). See also *U.S. v Peppers*, 302 F3d 120 (CA3 2002).

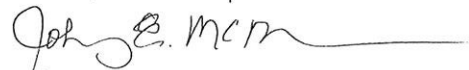
Whereas, the attached Subpoena Duces Tecum will afford the parties to testify and present evidence, or lack thereof, to justify their actions in this manifest of injustice, as no qualified immunity from prosecution can spare them from civil liability in going outside the scope of their official capacity! If they were smart they'd change deeds and titles to protect their assets and future earnings, as when the team of lawyers and investigators unearth the trail of dirt left behind and the legal team descends on Sin City, like a Mack truck with lipstick, they'll be pointing fingers at each other to avoid prison and liability in a multi-billion dollar bifurcated trial, if necessary, as a special counsel will prosecute RICO ACT Violations and judicial tyranny, and thank God for entrepreneurs and Republicans as Trump to appoint progressive FBI Director, these government parasites will be lucky to end up with a bus pass to the soup kitchen, as the monetary damages for being falsely imprisoned for 6,200 days and denied future earnings in business ventures would bring Alan Dershowich and Jerry Spence out of retirement, as this case is just warming up and making a record for Federal review will be critical to the justice owed to the case.

Accordingly, Motion for Evidentiary Hearing and Order for Clerk of Court to Unseal the Record and Produce Arrest Warrant of 2005 for McMahon and any Record of Court Minutes of a Probable Cause Hearing in Justice Court between Dec. 12-15, 2005 is necessary as State Respondents are of the mindset that Probable Cause is determined by prosecutors and not courts, which is consistent with their errors and reasoning, to justify running roughshod over the civil rights of citizens and abusing the trust and integrity tax payers place in government officials to abuse their power and authority in securing convictions in such a manner. Wherefore, holding these State Respondents accountable is ripe for

public review as McMahon vs. State of Nevada, et al is the landmark case.

Dated: day of , 202 .

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Johnny E. McMahon", followed by a horizontal line.

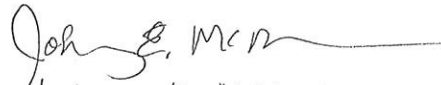
Johnny E. McMahon

Pro se

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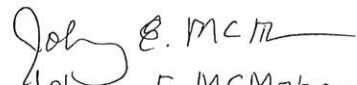

Johnny E. McMahon

CERTIFICATE OF SERVICE

McMahon declares that a true and correct copy of Motion for Evidentiary Hearing and Order for Clerk to Unseal Record and Produce Arrest Warrant of 2005 for McMahon and any Record of Court Minutes of a Probable Cause Hearing between Dec. 12-15, 2005 in Justice Court, was placed in U.S. mail postage pre-paid on day of , 202 to:

Aaron Ford
Attorney General
State of Nevada
100 N. Carson St.
Carson City, NV 89701

Clark County District Attorney's Office
Steven B. Wolfson
200 Lewis Ave.
Las Vegas, NV 89101


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MOTION FOR ENLARGEMENT OF
TIME TO STAY AND ABEY THE
WRIT OF MANDAMUS AND THE
EVIDENTIARY HEARING FOR
NINETY DAYS TO SECURE
COMPETENT LAW FIRMS AND
LEGAL REPRESENTATION TO
ELIMINATE EX PARTE HEARINGS.

Respondents.

COMES NOW, McMahon, Petitioner, pro se, moves this
Honorable Court to GRANT the above captioned Motion as
pled. Based upon attached exhibits and those on file with
the Clerks of the Court.

STATEMENT OF CASE/FACTS

McMahon strongly asserts that over the past sixteen years numerous Extraordinary Writs have been filed subsequent to retained, legally discharged convicted-felon attorney, Paul Wommer, who constructively hi-jacked McMahon's first direct appeal committing fraud upon the court and Judge Barker's degree of Judicial Bias in forcing Wommer back onto the case against McMahon's timely pro se motions creating a clear conflict of interest barring AEDPA provisions as addressed in Ground Four of the instant petition. It is noteworthy that no appointed post-conviction counsel has raised the enclosed Grounds being: Want of subject-matter Jurisdiction; Prosecutorial Misconduct of Fraudulent Concealment of Faulty Exculpatory DNA Evidence and Fraud Upon the Court; Judicial Bias; and Criminal Violations and Obstruction of Justice by the Clark County District Attorney's Office. It is additionally noteworthy that the reviewing courts have ignored the sequence of events to first certify the question as to subject-matter jurisdiction by physically inspecting the requisite evidence from the Clerk of the Court (or lack thereof) to certify the question of subject-matter jurisdiction to Grant legal standing, in stark contrast the courts have invoked inapplicable AEDPA provisions to bar Jurisdictional Review in violation of Title III Jurisdiction and the controlling Nevada Supreme Courts law of the case pursuant to NRS 173.035 and Stare Decisis holding in Levinson, Cranford, Murphy and Parsons, cases on all 4's with McMahon. Fraud Upon the Court pursuant to FRCP Rule 60(b) is a gateway exception under "Constitutional Structural Errors" which AEDPA

provisions cannot supercede, nor procedural errors giving courts judicial discretion to deny pro se petitions 100% of the time protecting government. The framers of Rule 60(b) put in place a "Savings Clause" to bypass inapplicable AEDPA provisions allowing applicants to collaterally attack wrongful convictions and sentences in perpetuity.

Again, the following and foregoing Motion is based upon the record and corresponding prima facie exhibits on file with the Clerks of the Court in Case No. 06C22085; 87297; 87#26; 88814; and Federal Case No. 2:14-cv-00076-APG-CWH; 3:20-cv-00453-MMD-WGC; 3:24-cv-000292-MMD-CSD; Ninth Circuit Court of Appeals Case No. 18-70010 and Case No. A-19-790328-W.

McMahon proceeding in forma pauperis has spent thousands of dollars in copy work @ 10¢ per page plus certificate of service mailings, as every hardship and tactic has been put in place with Clerks of the Court, as E-filing petitions is not available in State Courts only Federal courts, to discourage pro se petitioners, not to mention in the past 3 decades, in the 11 State District Courts, Court of Appeals and Nevada Supreme Court, over 10,000 petitions for writ of Habeas Corpus, filed in proper person, not a single petitioner has been granted relief from custody.

McMahon has additionally motioned every court to Order the State Respondents Clark County District Attorney's Office and Clerk of the Court to produce a valid copy of the said Arrest Warrant of 2005 for McMahon and documented evidence that a Probable Cause Gernstein Hearing was conducted within 72 hours of the unwarranted arrest between Dec. 12-15, 2005 (changed to 48 hours by SCOTUS

in County of Riverside v. McLaughlin supra). Not only is the Clerk of the Court devoid of any such requisite evidence the States campaign of lies in both open court and opposition briefs as to this fucking ruse has colored every erroneous judicial Order as the insubordination of perjury, fraud upon the court and Criminal violations by these government oath-takers is beyond egregious as the supporting prima facie evidence is both compelling and overwhelming as addressed in the grounds. In contrast, had McMahon or any citizen engaged in such conduct the State respondents would be waving the documents in the courts face demanding the courts to review the requisite evidence and hold us in contempt of court and to remand us to custody, however prosecutors, attorneys and judges are protected and held to a different standard in stark contrast to the ABA Model Rules of Professional Conduct Rule 3.8 and not held accountable for lying, cheating, stealing and concealing exculpatory evidence in the State of Nevada, especially when the vehicle is driven by proper person petitioners, as the courts allow prosecutors to conduct ex parte hearings rendering movant party petitioners as voiceless to make an appellate record, then the courts allow State prosecutors to draft the Courts Order and affix the signature without a judge even laying their eyes on the motion(s) and petition.

McMahon, as a college degreed and paralegal for over 40 years has personally witnessed this manifest injustice and has legally assisted thousands of inmate petitioners with similarly outrageous misconduct. McMahon is additionally well aware of the controlling standards, constitution and the Framers intent. Again, the degree

of overt judicial activism on display in the instant case, afforded to State prosecutors, to poke out hearsay bullshit ad nauseum and cite cases that beat a path to nowhere and point percisely in the opposite direction while courts tacitly accept these lies is outrageous and unconstitutional and will not pass scrutiny in the federal courts by State courts kicking this jurisdictional can down the appellate road. In stark contrast, McMahon has supported every statement and claim with prima facie evidence in petitions, unlike the State respondents who haven't presented or produced a scintilla of credible evidence, court minutes, or trial transcripts to impeach, or rebutt, McMahon's claims.

Whereas, McMahon cannot compete on a level playing field under such pretext of bias and prejudice proceeding pro se and the courts rubber stamping erroneous opinions of State prosecutors hell-bent on securing convictions using such fascist attacks on the constitution, as such should this reviewing court also fail to physically inspect the requisite evidence from the Clerk of the Court to unseal the record and certify the question as to subject-matter jurisdiction, as mandated by the U.S. Supreme Court, then the jurisdiction is "hypothetical" as coined by Justice Scalia and the legislative intent of NRS 173.035 giving State prosecutors another bite at the apple, as held by the Nevada Supreme Courts law of the case in Levinson, Cranford, Murphy and Parsons, cases on all 4's with McMahon's declaring a void judgment, yet these controlling standards are being over-shadowed and barred by inapplicable AEDPA provisions and the Clark County District Attorney's Office manipulation of the judicial process. Whereas, should this reviewing

court disagree giving judicial guidance, supported by controlling authority, to appellate courts it would constitute a case of first impression to ignore State law and subject the court to judicial tyranny. Notwithstanding, none of the 11 Circuit Court of Appeals or the U.S. Supreme Court since *Marbury v Madison* in 1803 have held that it is legally proper for a judge to force a retained legally discharged lawyer back onto the case to prosecute a defendant/clients first-direct appeal against his wishes putting the court on judicial notice creating a clear conflict of interest and rendering all subsequent court opinions as null and void which equally attaches to inapplicable AEDPA provisions as: Time Barment, Procedural Default, Claim Preclusion and Second or Successive Petitions to supercede constitutional structural errors as want of subject-matter jurisdiction. Notwithstanding the fact that if the court of origin, Las Vegas Township Justice Court failed to lawfully establish subject-matter jurisdiction and legal standing to hear the instant case, and the Clark County District Attorney's Office failed to lawfully establish legal standing to prosecute the case then the bindover to this Eighth Judicial District Court is a constitutional nullity and renders the courts judgment of conviction null and void ab initio.

The prima facie evidence in support of LVMPD Det. A.C. on re-direct examination at trial impeaching himself on record to declare that when McMahon was arrested on Dec. 12, 2005 an arrest warrant was not in place. NCIC and Scope of the TCR supports this fact. Moreover, on Dec. 16, 2011 appointed counsel, Rochelle Nguyen (now Nevada State Senator) and McMahon witnessed States DDA's G.O. and

C.B. retrieved the aforementioned Declaration/Warrant Summons document from Det. A.C. file and faxed the document to defense counsel Nguyen parading the bogus document around the court professing it to be a valid arrest warrant, in stark contrast to 11th Judicial District Court Judge Shirley who inspected the bogus document claiming it had no legal force and effect and was not signed by a judge. This fraud on the court by prosecutors, G.O. and C.B. was designed to hoodwink the court, as ex-prosecutor judge David Barker failed to physically inspect the bogus document, reflective of the courts erroneous order again authored by the Clark County District Attorney's Office. Both counsel Nguyen and McMahon further witnessed the prosecutors introduce into the record a copy of a TCR document, in stark contrast to the original TCR document issued to McMahon on Dec. 14, 2005. The DDA C.B. claimed that a re-booking process occurred, which is belied and repelled by the record, as placing both of the documents in juxtaposition side-by-side reflects an identical date stamp time and the States TCR document is an uttered cut and paste document with white out lines and the signature of magistrate KBH is a clear forgery fraudulently affixed to the TCR document, as a forensic inspection will confirm the fact the magistrate KBH's signature runs underneath the pre-printed signature line, which defies forensic science and after McMahon busted and exposed the Clark County District Attorney's Office of Criminal Violations government gangster, DA, Steven Wolfson, panicked and manipulated the Clerk of the Courts Office to change the filing case number and respondents to use a 5 year old

closed case by judge shopping, to put the case in Dept. 3 of the Eighth Judicial District Court Judge, Monica Trujillo, to conduct an ex parte hearing and fly Deputy Attorney General, Sabrina Clinton to Las Vegas to represent the Clark County District Attorney's office for the court to seal/redact the record of the felony and RLCD Act Violations. In furtherance, reflective of the prima facie evidence McMahon forwarded a motion and correspondence back to magistrate KBH for her to authenticate and verify her signature on the States TCR document - to no avail.

Accordingly, the Sigal Chatah law firm will ferret out the evidence of corruption, collusion, and criminal violations of the Clark County District Attorney's office to create an unlevel playing field and move the goal posts to manufacture a low hanging sex case absent a scintilla of corroborating or forensic evidence in support. A special counsel will review the back stories involving the FBI scrubbing the record of the Gentlemen Bandits and the surrounding casino gaming interest to keep McMahon from constructing Flying Saucer Resorts and the Rapid Transit System on the south end of Las Vegas Blvd. abutting then McCarran International Airport which would have seriously affected the bottom line profits of both the Mandalay Group properties and the MGM properties, as such the fix was in to secure a criminal conviction to keep McMahon from securing a RELT to resurrect FSR and the RTS. A special counsel will uncover the truth and indict, prosecute, convict, disbar and a federal court will imprison the respective parties as they did with, Paul Wommer, and McMahon will be exonerated and in a 1983 civil rights jury trial seeking \$26 billion dollars to resurrect

FSR and the RTS before a sympathetic jury hearing the degree of malice, vengeance, prosecutorial vindictive misconduct, judicial bias and co-conspirators of Paul Wommer who were in on the fix to secure a criminal case carrying a de facto death sentence to a 74 year old man who has been falsely imprisoned for 6,350 days and counting, the jury will hear from City, County and State of Nevada Treasurer begging them to render a favorable verdict as the ventures will generate hundreds of millions in taxable revenue and overcome the States deficit shortfalls and replenish the States Rainy Day Fund as well as send a message to the courts and all rogue prosecutors and thanks to JusticeForJohnny.com the funding and justice owed to the case will be in place to dismantle the Clark County District Courts Criminal Enterprise.

REASONS FOR GRANTING MOTION

1). McMahon was medically assigned to NNCC by doctor Karen Getney, in 2009. Based upon legal standards unless a medical physician lifts the assignment a prison warden is not qualified to act in the capacity of a doctor to override medical and move the inmate off the facility absent being a security risk. McMahon resided at NNCC until 2021.

2). McMahon Filed a Writ of Habeas Corpus in 2019 captioned Johnny McMahon vs. Isidro Baca, Warden, Case No: A-19-790328-W. The case was Filed and assigned to the Eighth Judicial District Court Judge William D. Kephart. McMahon additionally Filed a Motion for Order to Transport Petitioner and Motion for Evidentiary Hearing to adjudicate

2). Cont: the jurisdictional defect. The petition and motions were denied in an ex parte hearing controlled by DDA Bernard Zadrowski. The petition raised meritorious grounds of: Want of subject-matter jurisdiction; prosecutorial misconduct in the fraudulent concealment of faulty DNA evidence; and Judicial Bias of Judge Barker forcing retained, legally discharged convicted felon attorney, Paul Wommer, back onto McMahon's post-conviction first-direct appeal, creating a clear conflict of interest in stark defiance of McMahon's (3) three pro se motions to: Withdraw Wommer as appellate counsel based upon a clear conflict of interest; Appoint a conflict-free counsel; or allow McMahon to proceed pro se in a Feratta Hearing. All motions were stayed allowing Wommer to constructively hijack McMahon's first-direct appeal enabling Wommer to further hide his 20 plus reversible errors and omissions created at the lower level in violation of McMahon's Sixth Amendment Right against IAC. The case was further denied in the appellate courts and closed as Wommer was protected in the State and Federal courts. (See Ex # 93).

3). On March 26, 2021 McMahon filed a Writ of Mandamus in the First Judicial District Court, the Honorable Judge, James T. Russell, Granted the petition which set the stage for Warden, Perry Russell, to retaliate against McMahon declaring him a litigious inmate, (reflective of his medical file) and ripe for transfer. (See Ex # 96).

4). Upon McMahon preparing to file another civil rights petition against Warden, Perry Russell, being busted and exposed for lying on a document, the warden instituted his abuse of power to override

4). Cont: the medical restriction and moved McMahon to another facility, Warm Springs, then to Lovelock Correctional Center, aka "Diesel Therapy", a form of vindictive retaliation to transfer litigious, or undesirable inmates, out of the facility for exercising their constitutional rights, or for whatever whim and fancy they deem necessary. (See Ex's #97-99).

5). Prior to McMahon being exiled by Warden Russell McMahon filed Writs of Habeas Corpus and extraordinary Writs further exposing the Clark County District Attorney's Office widespread fraud, corruption, collusion and criminal misconduct involving the Dec. 16, 2011 Evidentiary Hearing. The State Attorney General's Office flew in Deputy District Attorney, Sabrena K. Clinton, to represent the Clark County District Attorney's Office and file a Motion, in an ex parte hearing, to Seal/Redact Records before Judge, Monica Trujillo, who granted the motion knowing full well that no such records existed with the Clerk of the Court to begin with, again the ruse was designed to hide the truth from McMahon and the public to protect DDA's, Glen O'Brien and Colleen Brown who committed felony forgery on Dec. 16, 2011 at the Evidentiary Hearing. Again, McMahon was denied the appearance to make a record as these ex parte hearings are systemic involving pro se petitioners rendering the movant party petitioner as voiceless by design. (See Ex #90).

6) At LCC McMahon filed a Writ of Habeas Corpus petition in the Eleventh Judicial District Court again challenging subject-matter jurisdiction; actual/factual innocence; the courts inapplicable use

6). Cont: of AEDPA provisions to bar jurisdictional review, prosecutorial misconduct at trial by DDA's, G.O. and P.S. fraudulent concealment of exculpatory DNA evidence to color the verdict and intentionally mislead the jury with malice and afore-thought to secure a conviction; and Judicial Bias. The court on Oct. 4, 2022 entered an Order Remanding the case back to the Eighth Judicial District Court in a Change of Venue. However, the Eighth Judicial District Court is not the court of origin, the Las Vegas Township Justice Court created the jurisdictional error. In furtherance, on May 16, 2022 the court Ordered the State to Respond and to file a return in accordance to the AEDPA provisions of NRS 34.360 to 34.380 inclusive, allowing the State respondents to invoke in-applicable AEDPA provisions as opposed to Ordering the State to first prove subject-matter jurisdiction and legal standing as mandated by controlling standards of the United States Supreme Court.

7). Again, based upon government gangster, DA, Steven Wolfson, going judge shopping to secure a favorable jurist, Monica Trujillo, to seal/redact records and hide the truth that the Clark County Clerk of the court possessed no record of any arrest warrant or a probable cause Gernstein Hearing being conducted, however the record did expose his office of operating a criminal enterprise and felony violations of criminal misconduct under RICO Act Violations. In a panic DA, Steven Wolfson, again orchestrated and manipulated both the Clerk of the Court, Steven Grierson, Office and the Eighth Judicial Court judge, Monica Trujillo, as on February 05, 2024 a petition for Writ of Habeas Corpus and corresponding Motions were

7). Cont: received by the Clerk of the Court, Steven Grierson, however the actual filing of the petition and motions were delayed until Febr. 27, 2024 some (22) twenty-two days to allow DA government gangster, Steven Wolfson, to orchestrate and manipulate the Clerk of the Court. McMahon strongly asserts that the Clerk of the Court, Steven Grierson, was instructed by DA Steven Wolfson to both delay the filing, and to file the case, not under a new case number as required by law, rather under the closed (5) Five year old case No: A-19-T90328-W, in Dept. 3, to place the case into judge Monica Trujillo's court, and using the same named respondents being Isidro Baca, Warden; Eighth Judicial District Court of the State of Nevada as opposed to the original filing of McMahon vs. State of Nevada, et al. As such using a mislabeled outdated closed case was deliberate and intentional from the outset to again compromise the petition and related motions creating an ex parte hearing in a protectionist court. (See Ex #90(A)).

8). On Febr. 18, 2024 McMahon forwarded correspondence to Clerk of Court, Steven D. Grierson, informing the Clerk of the mix up and that McMahon had yet to receive confirmation of the Petition For Writ of Habeas Corpus; Motion For Court to Order Clerk to Unseal Record and Produce an Arrest Warrant of 2005 for McMahon and any Record of Court Minutes of a Probable Cause Hearing being conducted between Dec. 12-15, 2005 in Justice Court; Motion for Appointment of Counsel; Motion for Evidentiary Hearing and Order to Transport Petitioner to Proceedings; Motion to Dismiss Judgment of Conviction and Order Expungement of Case from Record; and Motion for Change of Venue

8). Cont: to Remand Case Back Down to the Court of Origin, the Las Vegas Township Justice Court. (See Ex # 92).

9). On February 28, 2024, the day after the misfiled petition and related motions was dated, District Court Judge, Monica Trujillo, who had already Ordered the Record Seal / Redacted, Ordered the State respondents District Attorney's Office, as opposed to the State Attorney General's Office, who again represented the State District District Attorney's Office in the Order to Seal / Redact Record ex parte hearing, to respond to the Petition for Writ of Habeas Corpus, and again like the 11th Judicial District Court Order allowed the State respondents to invoke inapplicable AEDPA provisions of NRS 34.360 to 34.380 inclusive. (See Ex # 91).

10). Upon McMahon again noticing that the Clerk's filing of the petition and related motions were deliberately compromised McMahon forwarded correspondence back to the Eighth Judicial District Court Judge, Monica Trujillo, to put the court on notice of the misfiling and to correct the error. Whereas, had McMahon been represented by a competent counsel the matter would have been handled by an in-court appearance. (See Ex # 92).

11). Upon receiving no timely response to McMahon's request for Judge Trujillo to correct the plain error and Order a new case number to institute the respondents as being the State of Nevada, et al, as petitioned and captioned. McMahon forwarded correspondence to Chief Judge, Linda Bell, to take judicial notice of the matter

11). Cont: and take jurisdiction over the case, Again to no avail. (See Ex # 92).

12). McMahon additionally forwarded correspondence to Chief Judge Wiese and the documents were returned. (See Ex # 92).

13). Upon the advice of Chief Judge Wiese McMahon filed a motion to the Clerk of the Court to correct the intentional misfiling error. On April 10, 2024 the Clerk of the Court, Steven Grierson forwarded to McMahon a Notice of Nonconformance document. (See Ex #92).

14). On May 09, 2024 the courts Order was drafted by DDA, Jacob Villani, of the Clark County District Attorney's Office with the approval of Eighth Judicial District District Court Judge, Monica Trujillo. Again, the States drafted Order was misfiled to reflect the wrong case number and respondents, yet glaringly the States authored Order was captioned: ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS. Firstly, McMahon is not the Defendant, rather the movant party Petitioner / Plaintiff. Secondly, the States drafted Order captioned that a hearing date of April 24, 2024 at 9:30 A.M., again McMahon was not present to make an appellate record. The 1 1/4 page boilerplate drafted Order was denied due to claims being procedurally barred (Under AEDPA provisions). The Order dated on May 09, 2024 was allegedly signed by Jacob Villani, the author, Chief Deputy District Attorney. McMahon strongly asserts that neither judge Trujillo or Sr. judge Cherry ever laid eyes on the petition or related motions. (See Ex #94).

15). McMahon again refiled the Petition for Writ of Habeas Corpus on July 29, 2024 and this time a new case number was affixed to the petition, Case No: A-22-853003-W, Dept. XXII and the correct respondents listed. Eighth Judicial District Court, Judge, Susan Johnson, denied review of the jurisdictional defect, and again in stark contravention of the United States Supreme Courts controlling standards and related constitutional structural errors. The court invoked inapplicable AEDPA provision of Claim Preclusion, as opposed to physically inspecting the requisite evidence to certify the question as to subject-matter jurisdiction. It is additionally noteworthy that at no time did any of the protective courts claim, or invoke, that McMahon's petitions were vexatious to bar filing. (See Ex # 100).

16). By now reviewing followers and contributors of McMahon on Justice For Johnny.com are comparing this farce and sham case of the State Respondents campaign of lies and fraud in running roughshod over pro se petitioners constitutional rights to Russian Justice, as collectively the Clark County District Attorney's Office, State of Nevada Attorney General's Office and the Eighth Judicial District Court have taken a chapter out of the Communist Manifesto to deprive citizens of their Due Process and Equal Protection rights as reflective of the prima facie evidence this manifest injustice reeks of fascism. Again, based upon the cumulative errors and omissions and constitutional structural errors and systemic fraud McMahon's legal representatives will additionally request ~~request~~ that the Clark County District Attorney's

16). Cont: Office and the Clerk of the Court produce States Exhibits #32-33, McMahon's bedding used at trial to hoodwink the court and intentionally mislead the jury, in claiming that the DNA evidence was 1-38,000 against McMahon tearing witness accuser, E.H. hymen during the initial sex act in June, 2004, yet the true evidence withheld by the State and defense attorney, Paul Wommer, was E.H. menstrual period discharge in Oct. 2004, some (4) four months later when the evidence was confiscated and E.H. in her voluntary statement of Oct. 2005, (as she evaded Det. A.C. for a year to give the statement) confirmed the fact that she had a menstrual period discharge on McMahon's bedding in Oct. 2004. This fraudulent concealment of the true exculpatory DNA evidence will be forensically examined to eliminate McMahon as a suspect, notwithstanding the fact that the State prosecutors inferred that McMahon, R.M. and E.H. slept on bloody bedding for (4) four months.

17). Additionally, being that no pro se petitioner in the State of Nevada has broken through the glass ceiling to receive justice, as such being on equal footing with rogue prosecutors, who manufacture sex cases, create unlevel playing fields and move the goal posts to strike foul balls, competent legal representation is necessary and would aid this court's task in ferreting out the truth and real evidence, or in the instant case, the lack thereof, and making a record for appellate review; and

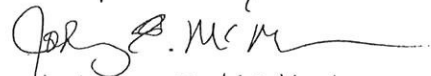
18). This motion for enlargement of time will enable counsel Rochelle Nguyen to complete duties as Nevada State Senator in the

18). Con't: 83rd Legislature Session and secure competent out-of-state law firms as Barry Scheck, Peter Neufeld to address the faulty DNA evidence and secure McMahon's release from prison and allow the Chatlak Law Firm to conclude investigations and secure additional IT data, correspondence, and evidence to prosecute the parties for RICO Act Violations and criminal violations.

Accordingly, McMahon respectfully requests this Motion for Enlargement of Time for (90) Ninety days be Granted to secure competent law firms and legal representation and investigators to eliminate ex parte hearings and bring this manifest injustice to and end.

Dated: day of , 2025.

Respectfully submitted,



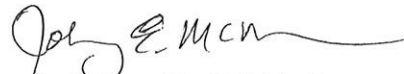
Johnny E. McMahon

Pro se

VERIFICATION/AFFIRMATION NRS 239.030

McMahon declares under penalty of perjury that the following and foregoing statements, evidence and pleading is true and accurate to the best of his ability and possesses first-hand knowledge of the truth and accuracy of the events and that no documents contain the social security number of anyone.

Dated: day of , 2025.

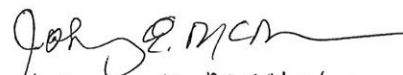

Johnny E. McMahon

CERTIFICATE OF SERVICE

McMahon declares that a true and correct copy of Motion for Enlargement of Time to Stay and Abey the Writ of Mandamus and Evidentiary Hearing for Ninety Days to Secure Competent Law Firms and Legal Representation to Eliminate Ex Parte Hearings, was placed in U.S. mail postage pre-paid on day of , 2025 to:

Aaron Ford
Attorney General
State of Nevada
100 N. Carson St.
Carson City, NV 89701

Clark County District Attorney's Office
Steven B. Wolfson
200 Lewis Ave.
Las Vegas, NV 89101


Johnny E. McMahon
Pro se

Johnny E. McMahon #1022589
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
In Proper Person

IN THE EIGHTH JUDICIAL DISTRICT COURT
IN AND FOR THE STATE OF NEVADA

JOHNNY E. McMAHON,
Petitioner,

Case No:
Dept. No:

vs.

THE STATE OF NEVADA,
LAS VEGAS TOWNSHIP
JUSTICE COURT, EIGHTH
JUDICIAL DISTRICT COURT,
ELEVENTH JUDICIAL DISTRICT
COURT, CLARK COUNTY DIST.
ATTORNEY'S OFFICE, LAS
VEGAS METROPOLITAN POLICE
DEPARTMENT, NEVADA DEPART.
OF CORRECTIONS AND WARDEN
BREITENBACH, REAL PARTY
IN INTEREST.

MOTION FOR CHIEF JUDGE
OF EIGHTH JUDICIAL DIST.
COURT TO ARREST CASE AND
TAKE JURISDICTION OF THE
PENDING EMERGENCY MOTION
FOR PETITION FOR WRIT OF
MANDAMUS AND RELATED
MOTIONS FOR CAUSE.

Respondents.

COMES NOW, McMahon, Petitioner, pro se, moves this Honorable Court to GRANT the above captioned Motion as pled. Based upon the attached exhibits and those on file with the Clerks of the Court.

The troubling history of the Clark County Clerk of the Court, Steven J. Grierson, engaging in collusion and obstruction of justice, in concert with Clark County District Attorney, Steven Wolfson, to deny McMahon of access to the court is both compelling and overwhelming supported by prima facie evidence. The degree of RICO Act Violations in this ongoing conspiracy is being requested, by McMahon's followers in JusticeForJohnny.com, for U.S. District Attorney General, Sigal Chalhah and McMahon's legal counsel, Rochelle Nguyen, Nevada State Senator, coming on board when the 83rd Legislature Session concludes. As being that proper person petitioners in the 8th Judicial District Court are being denied access to post-conviction hearings; as these ex parte events allow the Clark County District Attorney's Office to manipulate, both the Clerk's Office and the 8th Judicial District Court, authoring court orders, invoking inapplicable AEDPA provisions as: Time barment; Procedural Default; Claim Preclusion; and Second or Successive Petitions, rendering pro se petitioners as voiceless.

This overt conspiracy and troubling back stories involving extra-judicial events are well chronicled in the instant case. Moreover, there is no legal dispute in question that the Clerk of the Court's Office is protecting the Clark County District Attorney's Office, which equally attaches to the 8th Judicial District Court, as all parties are State Respondents, and no pro se petitioner can compete under this pretext, and licensed attorneys are not treated with such disdain in exercising the rights of clients. The prima facie evidence on file will support McMahon's claims of prejudice to warrant the Chief Judge to arrest the case and take jurisdiction.

STATEMENT OF CASE/FACTS

- 1). McMahon forwarded an *informa pauperis* application, Motion for Emergency Writ of Mandamus Petition and corresponding Motion for Court to Conduct an Evidentiary Hearing and Order Clerk of Court to Unseal Record and Produce Arrest Warrant of 2005 for McMahon and any Record of Court Minutes of a Probable Cause Hearing between Dec. 12-15, 2005 in Justice Court. The document was electronically filed in the 11th Judicial District Court on March 26, 2025 under Case No: 27CV-OTH-2025-0081.
- 2). Clerk of the Court, Gate Keeper, Kate Martin, for the 11th Judicial District Court, returned the documents back to McMahon unfiled as non-conforming documents (as she did in 2022) creating an unnecessary hardship and denying access to the court, this time claiming that there must be a cover page for each exhibit which is the first time any Clerk invoking such a policy, as there are no hard and fast set of rules, policy, or procedures addressing such in the LCC law library. McMahon had previously invoked the controlling standards, to the Clerk, underpinning the United States Supreme Courts decision in *Haines v. Kerner* holding that pro se petitioners are not held to the same stringent standards, as learned lawyers, in the filing and drafting of petitions.
- 3). McMahon returned the documents to the Clerk of the Court with a cover page to please the Clerk's whim and fancy and served copies of the Petition and corresponding motion on the State Respondents in a Certificate of Service.

4). On April 23, 2025 the 11th Judicial District Court electronically filed the instant petition in Case No: 27CV-OTH-2025-0081 in an Order Transferring (sic) Writ of Mandamus to Eighth Judicial District pursuant to NRS 13.050 and further Ordered that the Clerk of the Court will send a copy of this Order and the File to the Eighth Judicial District Court for further hearings. It is additionally noteworthy that there was no mention in the Courts Order of the Motion of the Evidentiary Hearing and Order for Clerk to Unseal Record and Produce Arrest Warrant of 2005 For McMahon and any Court Minutes of a Probable Cause Hearing between Dec. 12-15, 2005 in Justice ^{Court} as well as Subpeona Duces Tecum documents for the State Respondents to produce requisite evidence to obtain legal standing and subject-matter jurisdiction. It is also noteworthy that pro se petitioners at LCC cannot E-file documents in any district court, including the Court of Appeals and Nevada Supreme Court as the snail-mail system is in place and designed to create an undue hardship and expense discouraging petitioning at 10¢ per page for copy work for petitions, exhibits, cover sheets and mailing postage expense in serving parties in a certificate of service. McMahon has spent over \$1,600 in copy work and mailing of documents since 2022.

5). To date, over one month, from the filing date of April 23, 2025 in the electronic filing from the 11th Judicial District Court to the Clerk of the Eighth Judicial District Court, McMahon has yet to receive any confirmation of the case being filed, or what related documents were filed, nor has McMahon received any case number

5). Con't; or what department or what judge the case is before. Moreover, McMahon has forwarded correspondence on (2) two separate occasions: (1) to include a request for the Clerk to file, stamp and copy the cover sheets of the Petition and Motion to confirm filing, case number and department and judge as well as an enclosed Disclosure document of State Respondents to be included as iv. in the Petition. Again, the Clerk of the Court to date has failed to respond in kind.

6). McMahon again forwarded correspondence to the Clerk of the 8th Judicial District Court to return service confirmation of the filing of the Emergency Writ of Mandamus and Evidentiary Hearing to include a case number, department number and assigned judge, and additionally enclosed a Motion for Bail Release Pending Appeal. Again, the Clerk of the Court ignored McMahon's request to provide confirmation of any filings, case number, dept. number or judge to date.

7). This problem of a conspiracy is systemic with Clerk of the Court, Steven Grierson, the Clark County District Attorney, Steven Wolfson, and corresponding Eighth Judicial District Court, judges: David Barker, William Kephart, Susan Johnson, and Monica Trujillo. who are all named parties as State Respondents in Disclosure and have invoked inapplicable AEDPA provisions in their collective Orders denying McMahon's Petitions, which now mandates by the higher courts for this reviewing court to certify the question of subject-matter jurisdiction giving the State legal standing.

8). Until the reviewing court physically inspects the requisite evidence (or in the instant case lack thereof) from the Clerk of the Court to certify the question as to subject-matter jurisdiction, as to date [n]o court has bothered knowing full well that no such jurisdiction exists to prove legal standing which automatically triggers a void judgment ab initio; and

9). The collective Eighth Judicial District Courts, reflective of the prima facie evidence, are steadfastly refusing to adhere to the Nevada State Statutes and controlling case law and authority of both the United States Supreme Court in Chicago Pickling supra and the Nevada Supreme Courts law of the case in Levinson, Cranford, Murphy and Parsons which are on all 4's with McMahon's case. The 8th Judicial District Courts, acting out in stark contrast in the sequence of order, to FIRST certify the question of subject-matter jurisdiction, are invoking inapplicable AEDPA provisions and addressing the merits, which again are secondary. This lawlessness must stop now as until Title III Jurisdiction is FIRST proven to exist neither AEDPA nor the merits can be addressed as Jurisdiction, by its very nature, is the power and authority to act. Jurisdiction cannot be waived, denied or conferred and until subject-matter jurisdiction is proven to exist the State Respondents do not have legal standing. As addressed in Ground One of the Emergency Writ of Mandamus the onus now rests with this reviewing court to certify the question as to subject-matter jurisdiction and the State Respondents legal standing as this is the justice owed to the case.

Accordingly, the Motion for Chief Judge of the Eighth Judicial District Court to Arrest Case and Take Jurisdiction of the Pending Emergency Motion for Petition for Writ of Mandamus and Related Motions for Cause, as until this Jurisdictional Can stops being kicked up and down the State appellate Courts road this manifest of injustice will not abate and most certainly will not pass constitutional scrutiny in either the Nevada Supreme Court or in the federal U.S. District Court.

CASE LAW AND AUTHORITY

The foregoing and following acts of collusion and conspiracy on behalf of the State Respondents and collective Eighth Judicial District Courts engaging in judicial activism to protect the Clark County District Attorney's Office in their erroneous opinions of AEDPA, a collateral attack on such unconstitutional violations must abate. A writ of Mandamus or Prohibition are appropriate remedies to arrest the proceedings of a court when there is not a plain, speedy and adequate remedy in the ordinary course of law and when the proceedings of the court are without or in excess of jurisdiction. To permit the issuance of extraordinary writ it is not necessary that there be a lack of jurisdiction over the subject matter, or parties, in the fundamental sense, but only that there be a want, or excess, of the power of the court as defined by statute, or by rules, developed and followed under the doctrine of stare decisis. Tide Water Assoc. Oil Co. v Superior Court,

43 Cal 2d 815, 821, 279 P. 2d 557. See also *Abelleira v. District Court of S. Cal.* 2d 430, 17 Cal 2d 280, 287, et seq. Jurisdiction is a threshold determination and cannot be waived. *Velez v. Crown Life Ins. Co.*, 599 F2d 471 (1st Cir 1979).

Subject-matter jurisdiction, like jurisdiction over the person, is not a subject of judicial discretion. Subject-matter jurisdiction either exists or it does not and, before proceeding on the merits [or AEDPA provisions], a court should be satisfied that it does have the requisite jurisdiction. [Emphasis added] *Sherard v. State* (2022). It is fundamental, if not axiomatic, that, before a court can render any decision, or order, having any effect in any case or matter, it must have subject-matter jurisdiction. Jurisdiction is essential to the exercise of judicial power. Unless the court has jurisdiction, it lacks any authority to proceed, and any decision, judgment, or other order is, as a matter of law, utterly void and of no effect or purpose. Again, subject-matter jurisdiction, like jurisdiction over the person, is not a subject of judicial discretion. There is a difference, however, because lack of jurisdiction over the person can be waived, but lack of subject-matter jurisdiction cannot be. As such, subject-matter jurisdiction either exists or it does not and, before proceeding on the merits [or AEDPA provisions] a court should be satisfied that it does have the requisite jurisdiction. [Emphasis added] (quoting *Messer* 13, 96 P3d at 17).

As held by the Wyoming Supreme Court in *Edsall v Moore*, July 15, 2016, whether jurisdiction exists may be asserted at any time by any interested party or sua sponte by the court at the trial or the appellate level. The absence of subject-matter jurisdiction in a

district court cannot be waived, and the Wyoming Supreme Court can have no greater jurisdiction of the subject matter than the district court. The Court went on to hold in *Granite v. Springs Retreat Ass'n. v. Manning*, May 12, 2006 ("...unless the court has jurisdiction, it lacks any authority to proceed, and any decision, judgment, or other order is, as a matter of law, utterly void and of no effect for any purpose...").

Federal Rules of Civil Procedure 12(h)(3). While a district court may not sua sponte remand a case for procedural defects, a court may sua sponte remand a case if it lacks jurisdiction. "Fed. R. Civ. P. 12(b)(1) motion to dismiss tests whether a complaint alleges grounds for federal subject-matter jurisdiction..." 2022 U.S. Dist. LEXIS 50445 *Espinoza v. Union of Dentists Afscme Local 206*, March 16, 2022. See e.g. *Robinson v United States*, 586 F3d 683, 685 (9th Cir 2009). The Nevada Supreme Court in *State Indus. Ins. Sys. v Sleeper*, 100 Nev. 267, 269, 679 P.2d 1273, 1274 (1984) held ("There can be no dispute that lack of subject-matter jurisdiction cannot be waived because parties cannot artificially invest a court with power it does not constitutionally have by ducking their heads and pretending the problem doesn't exist").

The United States Supreme Court has weighed in on cognizable claims in federal habeas corpus proceedings. To be sufficiently important to qualify for habeas corpus review, a federal statutory claim must (1) attack a fundamental defect which inherently results in a "complete miscarriage of justice" or in a proceeding inconsistent with the rudimentary demands of fair procedure or (2) present exceptional circumstances rendering the need for the

remedy afforded by the writ of habeas corpus. The Court has further refined these descriptions both by applying them to permit habeas corpus relief from any failure to comply with the formal requirements of [a federal statute] that occurred in the context of other aggravating circumstance and by identifying at least five exemplary "aggravating circumstances" that satisfy this test for what amount to "nontechnical" violations.

- (1) Violation of an important or fundamental statutory right, for example, "effectuates a constitutional right [such as] the Sixth Amendment guarantee of a speedy trial";
- (2) The existence of some particular "reason" to fear that State Judges in general may "undermine" or "be hostile to the Federal law" that was violated;
- (3) Violations of statutes as to which "nationally uniform interpretation" is particularly important;
- (4) "Willful or egregious" violations of any Federal law by particular State Judges; and
- (5) Prejudice to important interests of the incarcerated petitioner.

As a general rule, therefore, all properly exhausted and preserved Federal constitutional claims challenging the legality of a State's or Federal Government's holding the petitioner in custody, or the terms, duration, and possibly the conditions of that custody, are cognizable in habeas corpus. Also cognizable are custodial challenges premised on the limited set of Federal statutes, treaties, and Federal common law rights that bear on the propriety and conditions of criminal confinement by the States and that implicate important principles of national law or important individual liberty interests.

In regard to presumption of correctness to the district court's custody decision. The United States Supreme Court in *Hilton v. Bravnskill*, 481 US at 774-77, established an equitable test for determining whether to release a prisoner pending appellate review of a district court's decision to grant the writ and discharge the prisoner. The factors to be considered include: (1) whether the applicant has made a strong showing of likelihood of success on the merits; (2) whether the applicant will be irreparably injured absent a release; (3) whether others interested in the proceedings will be substantially injured; and (4) whether the public interest would be best served by release. See also *Haggard v. Corry*, 631 F.3d 931, 934-35 (9th Cir. 2010).

Under Cognizable Claims, If the petitioner is challenging jurisdiction in a collateral attack a fundamental defect which inherently results in a complete miscarriage of justice and vacatur of State conviction is warranted. See *Teague v. Lane*, 489 US 288, 305-06 (1989). As in the instant case McMahon may file a motion for examination by a different judge. See also *Ganov. U.S.*, 705 F.2d 1136, 1137 (9th Cir. 1983). Not only is an evidentiary hearing required to determine jurisdiction, it is additionally required to determine if legal counsel at pre-trial and trial was ineffective, which aptly involves Wommer's failure to investigate the case, or put the States case to a meaningful adversarial testing based upon his "diminished capacity" defense in his criminal Federal trial asserting his mental deficiencies, as ineffective counsel in a critical stage of the proceedings is a mixed question of fact and law. See also *U.S. v. Barrett*, 797 F.3d 1207, 1227-28 (10th Cir. 2015).

If the judge does grant an evidentiary hearing, movants are entitled to notice and an opportunity to appear if their presence would help resolve substantial issues of fact as to events in which they participated. (Citations omitted). As held in *Rosemond v. Lambert*, 469 F.2d 416 ("The burden shifts to the court to prove jurisdiction... a court cannot confer jurisdiction where none existed and cannot make void the proceedings."). FRCP 12(b) e.g. *City of Indianapolis v. Chase National Bank*, 314 US 63, 69, 62 S.Ct 15, 16 (1941).

The United States Supreme Court has addressed AEDPA provisions failure to supercede a collateral attack on jurisdiction fact inquiry, in *Chicago Steel and Pickling Company v. Citizens for a Better Environment*, 533 US 83, 118 S.Ct 1003 (1998), opinion by Scalia J., joined by Rehnquist Ch.J., O'Connor, Kennedy and Thomas J.J. holding threshold jurisdictional question had to be resolved before the Supreme Court could proceed on merits. Justice Scalia went on to severely chastise the Ninth Circuit Court of Appeals opining: ("The Ninth Circuit has dominated this practice (of addressing merits prior to proving jurisdiction) which it characterizes as assuming jurisdiction for the purpose of deciding merits" the "doctrine of hypothetical jurisdiction").

The Nevada Supreme Court took up this very argument in the requirements of NRS 173.035. In *Sheriff Clark County v. Levinson*, 95 Nev. 436, (A complaint must be filed forthwith and the peace officer must produce the accused before a magistrate court of proper jurisdiction accompanied by a sworn criminal complaint, or by indictment, to hold the accused of a crime). As such, as in the

instant case, waiting 96 days later until March 23, 2006 at Preliminary Hearing, does not constitute "forthwith" rendering subject-matter jurisdiction as nugatory. In *Parsons v 5th Judicial Dist. Ct. ex rel County of Nye*, 885 P2d 1316 (1994) a case on all 4's with the instant case, the court held that subject-matter jurisdiction did not properly attach to justice court. This is not a discretionary act availing to justice court rather a statutory duty that the Nevada legislature put in place to protect the rights of the accused against arrest and prosecution. The Court went on in *Cranford v. Smart*, 92 Nev 89 (the proper way for the State to bring charges against a defendant would have been by filing a proper complaint or by indictment in a timely manner). The Cranford Court found support in *Murphy v State*, 110 Nev 794, and reversed the conviction holding the State improperly circumvented the pre-trial charging process and that NRS 173.035(2) was a device to rectify "egregious errors" and was not a mechanism for safeguarding deficiencies in evidence. As such, what applies to the Courts law of the case equally attaches to the instant case under the Due Process guarantees. Ground One of the instant petition clearly establishes the fact that subject-matter jurisdiction was never legally established in justice court to remand the proceedings to the district court.

Not only did the Clark County District Attorney's Office engage in fraud upon the court pursuant to Rule 60(b) the Ninth Circuit Court in a long line of venerable cases has addressed subject-matter jurisdiction and fraud upon the court. In *E.L. Cord v Smith*, 370 F2d 418, 423 (9th Cir), ("There is firmly established in the

laws the doctrine confirming the power of the court to set aside at any time any mandate that was procured by effecting a fraud upon the court"). The Court went on to hold in *Cooper v. Woodford*, 358 F3d 1117, 1123 (9th Cir 2004). State courts cannot ignore their statutory law and corrective statutes and expect to be granted windfalls for their outrageous conduct. The Court went on in *U.S. v. Broadwell*, 959 F2d 292 (9th Cir 1992) holding that without proper jurisdiction a court cannot proceed at all, but can only note the jurisdictional defect and dismiss the case. See also *Norton v. Matthews*, 477 US 524, 531, 96 S Ct 2271. The Court in *Hocker v. Boles*, 346 F2d 285-86 (1965) held, ("No authority need be cited for the proposition that when a court lacks subject-matter jurisdiction any judgment rendered by it is void and unenforceable. Once jurisdiction is collaterally challenged the court cannot proceed when it clearly appears to reach merits but rather should dismiss the action"). See also *Melo v. U.S.*, 505 F2d 1026 (there is no discretion to ignore subject-matter jurisdiction).

The Court went on in *Augustine v. United States*, 704 F2d 1074, 1077 (9th Cir 1983) held ("Lack of subject-matter jurisdiction cannot be waived, and the court is under a continuing duty to dismiss an action whenever it appears that the court lacks jurisdiction"). Fed. R. Civ. P. 12(b)(3), ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action"). ("Subject-matter jurisdiction can never be forfeited or waived and courts have a continuing obligation to determine whether subject-matter jurisdiction exists"). See *Lesson v. Transamerica Disability Income Plan*, 671 F3d 969, 975 n. 2 (9th Cir 2012). The Court went on

in *Painero v. Archon Corp.*, 844 F.3d 832 (9th Cir 2016), ("If a court lacks subject-matter jurisdiction it is obligated to dismiss the case, regardless of how long the litigation has been ongoing. If the court determines that it lacks subject-matter jurisdiction, it is required to dismiss the complaint in its entirety").

The United States Supreme Court in *United States v. Cotton*, 535 US 625, 630, 122 S.Ct 1781 (2002) went on to hold, ("... defects in subject-matter jurisdiction require correction, regardless of whether the error was raised in District Court..."). The Court went on in *Jackson v. Virginia*, 443 US 307 (1979), ("Federal habeas courts act in their historic capacity - to assume that the habeas petitioner is not being held in violation of federal constitutional rights"). Which now triggers the "Savings Clause" of FRCP 60(b) as operable. The Court went on to hold any acts which exceed power of court, whether defined by statute, or by rules, developed and followed under doctrine of *Stare decisis* may be restrained by extraordinary writ. To invoke extraordinary writ as a vehicle by a court, the petitioner must satisfy two jurisdictional requirements, (1) the status requirement that the petition challenged be "in behalf of a person in custody pursuant to the judgment of a State Court"; and (2) the substance requirement that the petition challenge the legality of that custody on the ground that it is "in violation of the constitution or laws or treaties of the United States." *Bounds v. Smith*, 430 US 817, 828 (1977). The constitution guarantees prisoners the right of meaningful access to courts. See also *Johnson v. Avery*, 393 US 483, 485 (1969), (Prisoners right of access to courts may not be denied or

obstructed). As such, based upon the Clerk of the Court, Steven Grierson, obstruction of justice and denying McMahon off Due Process, afforded to licensed lawyers, in Woods v. Carey, 684 F3d 934, 938 (9th Cir 2012) right of access claim stated when courts failed to provide pro se litigant with notice of requirements to defeat dispositive motion).

Accordingly, the Motion for Chief Judge of Eighth Judicial District Court to Arrest Case and take Jurisdiction of the Pending Emergency Motion for Petition for Writ of Mandamus and Related Motions for Cause are now justified and require this Courts Immediate Attention.

IT IS SO PRAYED.

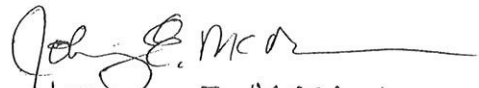
Dated: 29 day of May, 2025.

Respectfully submitted,

John E. McMahon
Johnny E. McMahon
Pro se

VERIFICATION/AFFIRMATION NRS 239.030

McMahon declares under penalty of perjury that the following and foregoing statements, evidence and pleading is true and accurate to the best of his ability and possesses first-hand knowledge of the truth and accuracy of the events and that no documents contain the social security number of anyone.
Dated: 29 day of May, 2025.


Johnny E. McMahon

CERTIFICATE OF SERVICE

McMahon declares that a true and correct copy of Motion for Chief Judge of Eighth Judicial Dist. Court to Arrest Case and Take Jurisdiction of the Pending Emergency Motion for Petition for Writ of Mandamus and Related Motions for Cause, was placed in U.S. mail postage pre-paid on 29 day of May, 2025 to:

Aaron Ford
Attorney General
State of Nevada
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Carson City, NV 89701

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Johnny E. McMahon
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