

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

DEC 1 2017

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner-Appellant,

v.

BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,

Respondents-Appellees.

No. 17-15265

D.C. No.

2:16-cv-02215-APG-PAL

District of Nevada,  
Las Vegas

ORDER

ANTHONY K. ANDERSON,

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

The court has received appellant's pro se motion entitled "newly discovered evidence," which the court served electronically on counsel. Because appellant is represented by counsel, only counsel may file motions. Accordingly, the court declines to entertain the pro se motion (Docket Entry No. 17).

Appellees' motion to strike (Docket Entry No. 18) is denied as unnecessary.

The unopposed motion for an extension of time to file the opening brief

Appendix E

EXHIBIT # 18 -B

10F2

(Docket Entry No. 20) is granted. The consolidated opening brief is now due on January 12, 2018. The consolidated answering brief is now due on February 12, 2018. The optional consolidated reply brief is due within 21 days after service of the answering brief.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Susan Landsittel  
Deputy Clerk  
Ninth Circuit Rule 27-7

*Appendix E*

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JAN 24 2018

MOLLY C. DWYER, CLERK  
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District of Nevada,  
Las Vegas

ORDER

ANTHONY K. ANDERSON,

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

Before: Peter L. Shaw, Appellate Commissioner.

The court has received appellant's pro se motion filed on December 1, 2017,  
which the court served electronically on counsel. Because appellant is represented  
by counsel, only counsel may file motions. Accordingly, the court declines to  
entertain the pro se motion (Docket Entry No. 22).

Within 14 days after the date of this order, counsel shall file a response to

SLL/MOATT

Appendix E  
Exhibit # 18 C

the pro se filing.

The unopposed motion for an extension of time to file the consolidated opening brief (Docket Entry No. 23) is granted. The Clerk shall file the opening brief submitted on January 19, 2018 at Docket Entry No. 24. The answering brief is due within 30 days after the date of this order. The consolidated optional reply brief is due within 21 days after service of the consolidated answering brief.

Appendix E

Rene L. Valladares  
Federal Public Defender  
District of Nevada

Lori C. Teicher  
First Assistant

Jason F. Carr  
Assistant Federal Public Defender



**FEDERAL PUBLIC  
DEFENDER**

— District of Nevada —

411 E. Bonneville Ave.  
Suite #250  
Las Vegas, NV 89101  
Tel: 702-388-6577

February 8, 2018

Anthony K. Anderson  
#1082999  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

Re: Anderson v. Williams  
Case No: 17-15265

Dear Mr. Anderson:

Enclosed please find a copy of the ~~Response, filed February 8, 2018.~~

Please call me should you have any questions.

Sincerely,

JASON F. CARR

Assistant Federal Public Defender

Hope you agree with  
what I said. Please  
don't file anything with the  
Circuit without contacting me first.

Appendix E

Exhibit 18-D

CA No. 17-15265, 17-70203

~~IN THE UNITED STATES COURT OF APPEALS~~  
~~FOR THE NINTH CIRCUIT~~

\* \* \*

ANTHONY ANDERSON,  
Petitioner/Appellant,

vs.

BRIAN WILLIAMS, WARDEN;  
NEVADA ATTORNEY GENERAL,  
et al.,

Respondents/Appellees.

D.C. No. 2:16-cv-2215-APG-PAL

(District of Nevada, Las Vegas)

**RESPONSE TO PRO SE FILING  
DOCKET NO. 22**

COMES NOW the Appellant, Anthony K. Anderson, by and through his attorney, Jason F. Carr, Assistant Federal Public Defender, pursuant to this Court's January 24, 2018 Order (Appellate Docket (AD) 24), hereby responds to Anderson's December 1, 2017 filing. (See AD 22.)

Anderson filed his Opening Brief on January 19, 2018. Appellees' Answering Brief is due February 23, 2018.

Aside from Anderson's pro se filing, at issue here, there are no other motions pending. The lower court did not conduct any hearings so Anderson has not designated any federal transcripts. Anderson provides any relevant state court transcripts in his Excerpts of Record. (See AD 29.)

[Appendix E]

Exhibit # - 18-D

26

### DECLARATION OF JASON F. CARR

1. I am counsel for Appellant, Anderson, in the above-entitled matter. (I have personal knowledge of all matters contained herein and am competent to testify thereto.)

2. On July 6, 2017, this Court entered an order and appointing the Federal Public Defender as counsel for Anderson. I filed a Notice of Appearance on July 20, 2017.

3. That I filed Anderson's Opening Brief and Excepts of Record on January 19, 2018. (*See* AD 24 & 25.)

4. That Anderson's consolidated appeals concern whether Anderson needs to seek permission to file a successive petition pursuant to 28 U.S.C. § 2244(b). (*See* AD 8 (COA grant and Order consolidating appeals).)

5. That after my appointment, Anderson filed a series of pro se motions that, along with my telephonic conversations with him, revealed he did not understand the procedural posture of the case and the nature of this Court's COA grant. (*See, e.g.,* 12, 17.) This is understandable given the relatively complicated nature of federal habeas litigation and his case in particular.

Appendix E

EXHIBIT  18-D

6. That on November 20, 2017, I filed a motion to extend the Opening Brief deadline because I perceived the need for an in-depth and in-person consultation. On Sunday, November 26, 2017, I traveled to Indian Springs, Nevada, to meet with Anderson. This consultation lasted approximately an hour and a half. I have since had numerous telephonic conferences with Anderson.

6. ~~(That, before this visit, on November 22, 2017, Anderson mailed a pro se motion complaining of my lack of preparation, the fact I sought a continuance, and that I had not come to his place of incarceration to meet with him. (See AD 22.)~~

7. ~~(That, at the November 26, 2017 meeting, I addressed Anderson's concerns and explained that we could not receive a merits adjudication on his federal habeas claims unless I could convince this Court that his second pro se federal petition was not in fact successive. In Anderson's Opening Brief, I respectfully suggest that I made a good case for that assertion. Barring that, I explained, we would attempt to demonstrate a prima-facie case of actual innocence in order to seek a remand and use that as a basis to overcome the successive petition prohibition. If I succeed on appeal, Anderson would be able to amend his~~

Appendix E  
EXH. 18-D



federal petition. ~~Then we could plead and develop the claims he outlines~~  
~~in his pro se filing. (See AD-22.)~~ ← ↑

8. After consultation Anderson seemed to understand the nature of his appeals and what was at stake. He agreed that it was imperative to win the successive petition issue first and then, after remand, we could ~~explore the full factual nuances of his habeas claims.~~ I was not unprepared regarding the substantive nature of his habeas claims. The problem was that if we could not establish Anderson's right to file his petition no court would address his claims on the merits. The focus of the appeal had to be on preserving his right to have the claims heard at all.

9. That since the in-person consultation with Anderson we have had a much better relationship. I represented Anderson at his January 17, 2018 parole hearing and he expressed his satisfaction and gratitude for that effort. I also have also assisted Anderson with other matters and believe we now have a cordial relationship. Anderson seemed satisfied with his Opening Brief. Anderson has not, to the best of my knowledge, made any more pro se filings with this Court since the in-person consultation.

Appendix R  
EXHIBIT 18-D

Appellant Anderson is in the custody of the Nevada Department of Corrections. Nevada Department of Corrections ("NDOC") houses Mr. Anderson at the Southern Desert Correctional Center, in Indian Springs, Nevada. ~~The Nevada Parole Commission recently held a hearing on Anderson's first term of imprisonment but has not yet rendered a decision.~~ If paroled, Anderson will still have to serve a final three-to-twelve-year ~~indeterminate~~ term.

This Response is based on the following Declaration of Counsel.

DATED this 7<sup>th</sup> day of February 2018.

Respectfully submitted,

/s/ Jason F. Carr

JASON F. CARR

Assistant Federal Public Defender

411 E. Bonneville Ave., Suite 250

Las Vegas, Nevada 89101

(702) 388-6577

Attorney for Appellant **Anderson**

Appendix E

Exhibit

# 18-D

DATED this 7th day of February 2018.

Respectfully submitted,

/s/ *Jason F. Carr*

JASON F. CARR

Assistant Federal Public Defender


411 E. Bonneville Ave., Suite 250

Las Vegas, Nevada 89101

(702) 388-6577

jason\_carr@fd.org

Attorney for Appellant **Anderson**

EXH. 2.7 

COMES NOW THE DECLARANT JOHN C. WAWERNA

I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS. 53.045) that the forgoing is true and correct.

1. That I represented Anthony Anderson in 8<sup>th</sup> Judicial District Court Department 14, case number C-10-268406-1

2. That prior to my withdrawing from Mr. Anderson's case on the November 3, 2010, I had complied and collected, with the assistance of Mr. Anderson and private investigator, Tony Pitaro, now deceased, approximately two (2) plus banker boxes of evidence. Said evidence placed in controversy many, if not all, of the allegations made against Mr. Anderson in the aforementioned case and companion case. Said evidence also included:

- Contradictory video tape interview of one or more of the alleged victims taken by the state.
- Raw Data that contradict the facts alleged against the Defendant.
- Affidavits and other documentary evidence, establishing Mr. Anderson's hours of employment, which contradicted at least one of the complaining witness's testimony, regarding time and date of events.
- Copy of transcript of Mr. Anderson's employer "Patrick Gray." That established a defense for Mr. Anderson for one or more of the charges he was accused of committing. If transcript is not in the file, there are identifiers were in the file, alleging where the transcript is located.
- A transcript and or notes of witness Arlene Kelly who testified at a juvenile proceeding under oath to contradictory stories given to her by the children reference the conduct Mr. Anderson was charged with and that the children had informed her they were

Appendix E

EXHIBIT-18-E

1 informed, instructed and told how to testify by their mother and representatives of law  
2 enforcement. Contained in the boxes is information and identification that would  
3 allow information to be retrieved, if transcript was not in the boxes.

4 3. That after I withdrew from Mr. Anderson's case(s), the aforementioned evidence was hand  
5 carried by myself and Mr. Pitaro to Charles Odgers, Esq. office at 619 S. 6<sup>th</sup> Street, a building  
6 directly across the street from my build. At that time Mr. Odgers, Esq. was Mr. Anderson's  
7 attorney of record.

8 4. ~~That after delivering the aforementioned boxes, I, on serval occasions, I asked Mr. Odgers,~~  
9 Esq. if he wished to discuss the information contained therein. His reply, was that he had not  
10 reviewed it.

11 5. That I was present when ~~Judge Mosley sentenced Mr. Anderson~~ on approximately  
12 February 27, 2012. At that time, Mr. Anderson was represented by ~~Mr. Bret Whipple, Esq.~~ who  
13 replaced Mr. Odgers, Esq. who had left the Las Vegas area and was practicing in northern  
14 Nevada.

15 6. That when I saw ~~Mr. Whipple, Esq.~~ he had but a small file folder containing very few  
16 documents, I inquired regarding the documents and evidence I had given to ~~Mr. Odgers, Esq.~~  
17 ~~Mr. Whipple, Esq.~~ in essence said, he had all the documents ~~the District Attorney had given him,~~  
18 with him. He stated he had not seen or heard about the other banker boxes of evidence and  
19 information aforementioned.

20 7. That after Mr. Anderson was sentenced, but prior to Christmas of 2014, I had been made  
21 aware Mr. Anderson obtained an order from the 8<sup>th</sup> Judicial District Court that the  
22 aforementioned boxes of evidence be returned by Mr. Odgers, Esq. to the undersigned for safe  
23 keeping.  
24  
25

Appendix E

EXhibit 18-E

1 8. That on or about the Christmas holiday(s) of 2014, I had a chance encounter at the Clark  
2 County court house with Mr. Odgers, Esq. I inquired, since he was in Las Vegas that specific  
3 day, if arrangements could be made to obtain Mr. Anderson's file pursuant to the court order so  
4 I could act as the custodian of said files for Mr. Anderson. Mr. Odgers, Esq. informed me "they  
5 were in a warehouse" and he did not have time to get them to me that day, he had to immediately  
6 leave after his court appearance for northern Nevada.

7 9. That subsequent to the Christmas of 2014 meeting, I made several calls to Mr. Odgers, Esq.  
8 regarding Mr. Anderson's records, no records have been returned to date.  
9

10 10. That as of the writing of this declaration, I have received no communication from Mr.  
11 Odgers, Esq. and no efforts have been undertaken, that I am aware of, to return the evidence I  
12 gave him regarding Mr. Anderson's case(s).

13 11. That although unable to recall the exact date, I overheard a telephone call, prior to Mr.  
14 Anderson's sentencing, on speakerphone where Mr. Anderson advised Mr. Whipple, Esq. that  
15 he had obtained the monies necessary for Mr. Whipple, Esq. to pursue an appeal of Judge  
16 Mosley's denial of Mr. Anderson's motion to withdraw his plea. I know this conversation took  
17 place because it was shortly after I had withdrawn cash from my bank account to give Mr.  
18 Anderson in exchange for a lady's wristwatch and both Mr. Anderson and I were in my  
19 automobile. I overheard Mr. Anderson place the call to Mr. Whipple, Esq. on speakerphone,  
20 telling him he had the money for the appeal and would be bringing it to him. Mr. Whipple, Esq.  
21 acknowledged that he would start and/or complete the appeal, aforementioned, of the denial of  
22 his motion to withdraw his plea.  
23

24 12. That it is my information and believe that the aforementioned appeal was not filed on  
25 behalf of Mr. Anderson.

Appendix E

EXHIBIT 18-E

1 13. That this information is being supplied pursuant to Mr. Anderson's request and is, to the  
2 best of my ability, true and accurate in each and every detail stated herein.

3   
4 JOHN C. WAWERNA

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Appendix E

EXHIBIT 18 E

Date 11-8-2017

From: Anthony K. ANDERSON #1082999  
9th Circuit # 17-70203 # 17-15265

To: Clerk of Court Molly C. Dwyer  
US Court of Appeals

I am requesting

RECEIVED  
MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOV 13 2017

Docketing Sheets CONCERNING 

FILED DOCKETED	DATE	INITIAL
-------------------	------	---------

  
# 17-70203 # 17-15265

And a Personal Copy of All ORDERS  
From 9th Circuit Court of Appeals  
CONCERNING #17-70203

After The Courts Granting of petitioners  
SESSIVE Petition #17-70203  
CONCERNING #1 Appointment of Counsel  
#2 What Issues shall Appointed Counsel  
Address which were In Effective Asst.  
of Counsel  
#3 Appointed Counsel shall Also Address  
ANDERSONS other Issues as stated.

Petitioner Now Request His own  
Personal Copy of That Order  
with Instructions

Appendix E  
EXHIBIT #18-F

Anthony K. Anderson  
#1082999



2 1/2

Also note (Attorney Case 1) Never Investigate  
The Facts of Bias And Pre-Judice By U.S.D.C  
(Judge APG) Facts concerning N.D.O.C Calculation  
of Time As well as House Arrest Time

In which (APG) state was Anderson (ONE)  
shot at a Federal Hebeas.

Facts never Addressed By (Attorney Jason Carr)

In Anderson Plea Deal it clearly states  
If Defendant accepts plea Defendant  
Min Term of 3 years. shall not exceed 40%  
of Defendant's max Term of 12 years

40% of 12 years is 4.8 years  
Eight Months in which USD'C (APG)

was supplied with a copy of Anderson's  
Plea Deal as an exhibit in the said  
filed Hebeas Corpus concerning Anderson

have Confirmed Time owed as well as  
N.D.O.C. Calculation of Time  
According to Anderson's Plea Deal Anderson  
has Already Served ~~2~~ 2 years 9 months  
over Agreed Plea Deal just on Count # 1  
of Case (C268406) with Count # 2 Being Dismissed charges

EXHIBIT # 184

(OK Jason can't lead attorney) ON #17-10203  
For Almost 2 years and still doesn't know  
The facts of case # C268406. which leads  
Jason can't to disregard due dates and  
request extensions of time after extension  
of time due to failure to investigate  
Anderson's claims and facts of the case  
By and through reasonable research which  
the now begin to pre-judge plaintiff  
Anderson as plaintiff is saving time on  
now count #2 C-268406 Both dismissed  
charges. (K.S) Claims dismissed with a  
pre-judgment

(CP) Dismissed in plea deal (NOT  
reduced to a lesser charge  
but totally dismissed ID plea bargain  
C268406-1

Appendix C

EXHIBIT 18 F

\* 2nd Complaint \*  
Please IN-vestigate

CONCERNING  
ORAL ARGUMENT  
10-19-2018

① ( Opening Cover Page )

Attention Clerk of Court For The 9th Circuit  
Court of Appeals IN REGARDS TO Case# 17-70203,  
#17-15265 ~~#17-70203~~

Plaintiff BRING in Compliance with 9th Circuit  
Court of Appeals Circuit Rule 25-2 Communication  
with The Court's. This Communication is To The Personal  
attention of

#1 Chief Judge Alex Kozinski

#2 Senior Judge William C. Canby JR

#3 Circuit Judge Michael Daly Hawkins

All Above Mention Parties Including The Clerk of Court  
Have Grave Interest in The Above Mentioned Case#  
17-70203 / 17-15265 Attorney Jason Carr Does Not Address

2nd Complaint CONCERNING Appointed Counsel  
Jason F. Carrs Bias/Pre-juiced Actions To -ward  
Plaintiff Claims. As well as Failing To Follow 9th Circuit  
Orders To Present The Findings of Ineffective  
Asst. of Counsel in Accordance To 2244 (B) -

As well as MR Carrs Failure To Present Very  
Vital Facts To The Courts CONCERNING Plaintiffs  
Ineffective Asst of Counsel, NOT To EXCLUDE  
Actual INNOCENCE CONCERNING Attorney  
\* John C. WORMERNA (Defendant) Dated (May 22, 18)  
Which Now Through Facts of The Record  
Bias AND Pre-juice Can Be Proven  
As with Same offense Twice

Appendix E

EXHIBIT #18-G

Please Refer to  
Clerk of Court  
Stand #17-70203

(2)

Violations against Plaintiff Anderson

By AND Through Attorney \*JOHN C. WAWERNS \*  
Declaration in which Attorney Jason Carr  
was Forwarded a Full and Complete Copy  
To Investigate AND Present To The 9th Circuit Court  
of Appeals. MR Carr Refused To Present  
This declaration as with Refused To Present  
The Claims (Anderson) wishes To Raise As  
The High Courts Instructed (After Addressing  
The Issues The Court Stated; **QUOTE**ING,  
The words of The Courts

we find at least one Constitutional  
Violation of The 6th Amendment ineffective  
asst of Counsel To Be Addressed in  
line with 2244(B) Then Plaintiff  
Is To Address The Issues He wishes  
To Pursue

MR Carr Also Refuses To Address Plaintiff  
Separation of Powers Issues These Violations  
~~and~~ and complaint are also on file which  
The Record Reflects As Newly Discovered  
Evidence MR Carrs Pre-judiced Anderson-  
**BY NOT** <sup>(withheld)</sup> placing Issues Before The Courts  
To Be Certified By The Courts, which this  
(ineffectiveness can lead To Andersons claims Being  
lost FOR-EVER) which is now a  
Violation of The 14th Amendment Due Process  
AND Equal Protection of laws

EXHIBIT # 18-G

2/26/1997  
~~2/26/1997~~

2/26/1997

Negotiate

2

(3)

IN THE INTEREST OF JUSTICE

\* 2nd Complaint \* CONCERNING  
APPOINTED COUNSEL; FROM THE FEDERAL  
PUBLIC DEFENDERS' OFFICE MR JASON CARR<sup>S</sup>  
#1 EN EFFECTIVENESS CONCERNING FOLLOWING  
9th CIRCUIT COURT ORDERS, #2 HIS ABILITY TO  
BECOME FAMILIAR ~~WITH~~ PETITIONERS ISSUES  
ON APPEAL #3 HIS REFUSAL TO PRESENT  
THE SAID ISSUES.

IN REGARDS TO APPEAL #17-70203/17-15215  
THE FOLLOWING COMMUNICATIONS TO THE 9th CIRCUIT  
COURT OF APPEALS IS IN COMPLIANCE WITH  
CIRCUIT RULE 25-2 COMMUNICATION TO THE COURT

" Attention " CLERK OF COURT FOR THE  
UNITED STATES COURT OF APPEALS - 9th CIRCUIT

THIS COMMUNICATION IS TO THE PERSONAL  
ATTENTION OF THE FOLLOWING 9th CIRCUIT JUDGES

#1 CHIEF JUDGE, ALEX KOZINSKI

#2 SENIOR JUDGE, WILLIAM C. CANNBY JR

#3 CIRCUIT JUDGE MICHAEL DALY HAWKINS

MAY YOUR RECORDS REFLECT ON OCT 22, 2017  
PLAINTIFF A, ANDERSON FILED WITH THIS COURT  
HIS FIRST COMPLAINT CORRESPONDENCE, CONCERNING  
ATTORNEY JASON CARR INFORMING THE COURTS, THAT  
MR CARR REFUSES TO FOLLOW COURT ORDERS FOUND  
IN THE ORDER FILED BY 9th CIRCUIT COURT  
JULY 12 2017. THIS IS NOT A STRATEGIC  
MOVE BUT, ONE OF EN EFFECTIVENESS.

EXHIBIT 18-G  
9/18/17

④

NOT Following Court orders Can TIME BEING  
Plaintiffs claims / AND OR Cause Plaintiff  
To lose Facts Supported By The Record  
FOR-EVER AT NO EXPENSE OF COUNSEL  
IO EXHIBIT # 1 First Complete Communication  
IO EXHIBIT # 2 9th Circuit Court order  
which The Following Facts Where NOT  
- Presented in ANDERSON Opening Brief -

# ① Ineffective Asst of Counsel <sup>9th # 19-70203</sup> # C-268406-1  
# ② IO Page # 3 A/G Answering Brief  
(Guilty plea) Agreement ENCOMPASSED 3 separate  
Criminal cases AA, ZA, CP  
How is it ANDERSON is SENTENCED ON 4 Counts  
NOT 3 ?

# ③ IO Page # 4 A/G Response COUNT # 2  
The STATE agreed To Totally Dismiss # C268372  
(CP) <sup>claim</sup> NOT Reduce it To a lesser charge IO  
plea Deal STATE Also Notes They will NOT SEEK  
Indictment FOR EXHIBIT # 0908311399 (KS) THIS  
ENSURES (KS) CASE WAS NOT an open procedure  
During ple. Negotiations. But Facts (KS) Claims  
Where Dismissed with Pre-judiced -

Facts Never Answered By 8th Dist Court's  
(KS) NEVER Testified in open Court UNDER  
OAT During lower Court Preliminary Hearing  
Her Case Was Dismissed with Pre-judiced  
in lower Court, 8th Dist Court NEVER Gain  
Subject Matter Jurisdiction

Exhibit # 18-G

5

(K5) Recanted 1 1/2 years After Her Case  
Was Dismissed with Pre-Judiced AND  
Her Intal Allegations Was NEVER Under OAT  
in a Court of law MR Jason Carr NEVER  
Addressed This Very Important issue in His Opening  
Brief as (ORDERED) July 12 2017 (17-15265 / 17-70203  
MR Carr Never ID's

MORRIS V RONALDO 264 F.3d 38 2001 US App  
lexus #388 To Sentence a Defendant on a  
Dismissed Charge is a clear & Apparent violation  
which contaminates The Entire Procedure / Case  
MR J Carr Attempts At Corruing Me To Believe  
you can legally pled Guilty To a Dismissed  
with pre-judiced charge

#4 J Carr Never Investigates (clear EKKON) !  
MY claims; Do NOT Entirely Rely on (K5)  
Recanting as stated in (A/G's Response page # 11)

#5 The A/G Noted ( ID page # 19 Response To  
ANDERSONS Opening Brief, Noted By A/G

#1 ANDERSON Raised Double Jeopardy claims /  
Found in count #2 (Counsel Did NOT) Address

#2 ANDERSON Raised Actual Innocence claims Count #2  
(Counsel Did NOT) Address

#3 ANDERSON Raised Ineffective assistance of Appellate  
Counsel claims (Counsel Did NOT) Address

#4 ANDERSON Raised Two Sufficiency of Evidence  
claims (Counsel Did NOT) Address any of Plaintiffs  
Issues

EXHIBIT # 18-G



(6)

#5 ANDERSON raised state refused his rights to stand/testify

#6 ANDERSON raised Trial court ERROR NOT Allowing  
Plea with - Draw (Counsel Did Not)

#7 ANDERSON raised Trial court ERROR DURING  
Presentencing Evidentiary Hearing (Counsel Did Not)

#8 ANDERSON makes a challenge to Presentence credit  
Calculation (Counsel did Not) / N.D.C. Calculation of Time  
Counsel did Not

#9 The 9th Circuit court ordered ANDERSON To  
Include All The Above in His Opening  
Brief Counsel Atques with ANDERSON Concerning  
These Issues Orderd By The Court on July 12 2017  
ANDERSON'S Brief Doesnt Identify any such claims  
ID Exhibit #3 Page #3

NOTE Attorney J. Carr Never Intends  
To Address ANDERSON'S Separation of Powers  
Violation on File with 9th Circuit  
UNDER Newly Discovered Evidence

ID Exhibit #5 court order

ID Exhibit #4 court order

ID Exhibit #3 Page #5 4R J Carr  
CONFIRMS Then we could Plead AND Develop  
The claims outlined in (pro-se Filing) which  
CONCERNS Separation of Powers Violations  
which MR Carr Failed To Do

Appendix E

EXHIBIT 18-G

8

ID page #32 AG's Respecting Bibe (ANDERSON) Has a Concrete  
claim that Counsel failed to investigate claims before accepting plea  
(Attorney Jason Carr) never addressed above facts.  
Apparent Counsel stated in error that  
ANDERSON's reason for plea with-draw was  
Being the the Conting alleged victory  
This is clear ERROR, ANDERSON turned  
After reading the plea deal He was  
Going to be sentenced on Dismissed  
charges (KS) AND (CP) Counsel Charles  
Owens never goes over plea deal  
with ANDERSON But Emails plea TO  
ANDERSON's Email Address

- FINISH - line @ Rocket mail.com -  
stating sign and return you got probation  
never informing ANDERSON he was closing  
his law firm MR Carr never  
investigate nor addressed these facts

Note ID exhibit #6

MR Carr was also made aware  
that #1 Trail, Counsel #2 Negotiations Counsel  
and #3 Apparent Counsel where all ineffective  
NOT ONE OF THE ABOVE STATE COUNSELS  
GAIN POSSESSION OF THE ENTIRE FILE  
WHICH ANDERSON MAKES, ATTORNEY J Carr  
AWARE OF AND GIVES HIM ATTORNEY  
J Wawernau CONTACT INFORMATION  
TO CONFIRM MR J. Carr REFUSES TO CONTACT  
J Wawernau Plaintiff Here HAS TRIED  
TO CONTACT J Carr TO ADDRESS THESE ISSUES  
SINCE APRIL 23 TO NO AVAIL

18-5  
#  
Exhibit #

7

#9 ID Page #32 A/G Response J. Carr

#10 ID Page #33 A/G Response To J. Carr  
IF ANDERSON Relies upon The Claims He  
Contained IN His Pro-Se Application  
ANDERSON Arguable Raised

Two claims of Double Jeopardy  
INVOLVING The Inclusion of (K5) AND (CP)  
INTO sentencing OF Count #2

NEXT ANDERSON Raised Actual Innocence  
claims INVOLVING The conviction FOR crimes  
against (K5) (Counsel Failed To do so)

#11 ID Page #34 A/G Response is IN  
Error Fact MR Carr Doesnt have knowledge  
OF At The Time OF plea (K5) CASE  
was NOT an open pre-arrest, (K5) CASE  
HAD BEEN Dismissed with pre-judged 1 1/2 years  
(Before Ple Deal) ID Morris v Wendels  
264 F3d 38 2001 US App Lexis, To sentence  
a Defendant ON a charge THAT WAS NOT  
an open pre-arrest During plea negotiations  
BUT The charge/claim was included as an  
incentive To accept the ple is a plain  
clear violation OF The 5th Amendment which  
contaminates the entire procedure with NO  
De-novo This Never Addressed By Carr

Exhibit 18-G

9

That is correct Plaintiff ANDERSON  
Has Tried 3 Times a Day To Contact  
Attorney J. Carr Since April 23 2018  
with No Avail. Busy is ONE Thing  
But To TOTALLY Disregard a Client Is Another  
ANDERSON Now Come To The High Courts  
IN THE INTEREST OF JUSTICE

Fact MR Carr Won't Suffer More  
Time IN Prison For His Ineffectiveness  
ANDERSON will, with Briefing Response  
Due May 15, 2018 ANDERSON Now  
Request an Extension of Time AND  
Appointment of Constitutionally Adequate  
Counsel

MR Carr Request an Extension of Time  
For a Second Time For His Closing  
~~Brief~~ Due 6-15-2018 and Further Delays  
His Response ~~Do~~ To No Researchable Research  
And other Personal Issues That Don't  
Concern The Interest of Justice

6-20-2018

Anthony X. Anderson

Appendix 2

EXHIBIT 18-B

FILED

UNITED STATES COURT OF APPEALS

OCT 19 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner-Appellant,

v.

BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,

Respondents-Appellees.

No. 17-15265

D.C. No.

2:16-cv-02215-APG-PAL

District of Nevada,  
Las Vegas

ORDER

ANTHONY K. ANDERSON,

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

Appellees' motion (Docket Entry No. 13) to strike judicial notice and any response thereto shall be referred to the panel that will consider the merits of these cases for resolution.

The consolidated opening brief remains due November 17, 2017.

Appendix E

Exhibit #18-A

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Alihandra Totor  
Deputy Clerk  
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JUL 12 2017

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner-Appellant,

v.

BRIAN WILLIAMS; ATTORNEY  
GENERAL OF THE STATE OF NEVADA,

Respondents-Appellees.

No. 17-15265

D.C. No. 2:16-cv-02215-APG-PAL  
District of Nevada,  
Las Vegas

ANTHONY K. ANDERSON,

Applicant,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

ORDER

Before: CANBY, KOZINSKI, and HAWKINS, Circuit Judges.

On July 6, 2017, this court granted a certificate of appealability and appointed counsel to represent Anderson in appeal no. 17-15265. Anderson previously filed, in case no. 17-70203, a pro se application to file a second or successive habeas petition in the district court. We consolidate appeal no. 17-15265 with application no. 17-70203 and grant Anderson's pro se motion to appoint counsel (Docket Entry No. 1) in case no. 17-70203. Counsel will be

*Appendix 2*

*EXHIBIT # 18-H*

appointed by separate order.

The Clerk shall electronically serve this order on the appointing authority for the District of Nevada, who will locate appointed counsel. The appointing authority is requested to appoint the same attorney who will be appointed to represent Anderson in appeal no. 17-15265. The appointing authority shall send notification of the name, address, and telephone number of appointed counsel to the Clerk of this court at [counselappointments@ca9.uscourts.gov](mailto:counselappointments@ca9.uscourts.gov) within 14 days of locating counsel.

The briefing schedule previously established in appeal no. 17-15265 remains in effect for these consolidated cases. In addition to the issue that the panel directed counsel to brief in appeal no. 17-15265, counsel shall also include in the consolidated opening brief the issues that Anderson seeks to raise in a second or successive habeas petition and shall demonstrate how the requirements of 28 U.S.C. § 2244(b)(2) are satisfied. Appellees' consolidated answering brief shall respond to all issues raised in the consolidated opening brief.

Anderson's pro se "motion to extend prison copywork limit," (Docket Entry No. 1), filed in case no. 17-70203, is denied as moot.



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

APR 26 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner - Appellant,

v.

BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,

Respondents - Appellees.

No. 17-15265

D.C. No. 2:16-cv-02215-APG-PAL  
U.S. District Court for Nevada, Las  
Vegas

**ORDER**

ANTHONY K. ANDERSON,

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

D.C. No.  
U.S. District Court for Nevada, Las  
Vegas

The answering brief submitted by Attorney General for the State of Nevada and Brian Williams on April 25, 2018 is filed.

Within 7 days of this order, appellees are ordered to file 7 copies of the brief in paper format, with a red cover, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted

Appendix E

EXHIBIT 18-I

Case: 17-70203, 04/26/2018, ID: 10851543, DktEntry: 32, Page 2 of 2  
electronically. A sample certificate is available on the Court's website,  
[www.ca9.uscourts.gov](http://www.ca9.uscourts.gov), at the File a Document - CM/ECF link.

The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or CM/ECF.

The Court has reviewed the excerpts of record submitted on April 25, 2018. Within 7 days of this order, appellees are ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6.

The paper copies shall be submitted to the principal office of the Clerk. For regular U.S. mail, the address is P.O. Box 193939, San Francisco, CA 94119-3939. For overnight mail, the address is 95 Seventh Street, San Francisco, CA 94103-1526.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Kevin Wing Gee  
Deputy Clerk  
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JAN 24 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner-Appellant,

v.

BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,

Respondents-Appellees.

No. 17-15265

D.C. No.

2:16-cv-02215-APG-PAL

District of Nevada,  
Las Vegas

ORDER

ANTHONY K. ANDERSON,

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

No. 17-70203

Before: Peter L. Shaw, Appellate Commissioner.

~~The court has received appellant's pro se motion filed on December 1, 2017,~~  
~~which the court served electronically on counsel. Because appellant is represented~~  
~~by counsel, only counsel may file motions. Accordingly, the court declines to~~  
~~entertain the pro se motion (Docket Entry No. 22).~~

~~Within 14 days after the date of this order, counsel shall file a response to,~~

SLL/MOATT

Appendix E  
EXHIBIT #8-J

the pro se filing.

The unopposed motion for an extension of time to file the consolidated opening brief (Docket Entry No. 23) is granted. The Clerk shall file the opening brief submitted on January 19, 2018 at Docket Entry No. 24. The answering brief is due within 30 days after the date of this order. The consolidated optional reply brief is due within 21 days after service of the consolidated answering brief.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAR 13 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,  
  
Petitioner-Appellant,  
  
v.  
  
BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,  
  
Respondents-Appellees.

No. 17-15265  
  
D.C. No.  
2:16-cv-02215-APG-PAL  
District of Nevada,  
Las Vegas  
  
ORDER

ANTHONY K. ANDERSON,  
  
Petitioner,  
  
v.  
  
JO GENTRY, Warden,  
  
Respondent.

No. 17-70203

Before: Peter L. Shaw, Appellate Commissioner.

Counsel Jason F. Carr, Esq.'s response to the January 24, 2018 order  
(Docket Entry No. 30) is satisfactory. The January 24, 2018 order is discharged.

The briefing schedule established in the court's February 23, 2018 order  
continues to apply to these consolidated appeals.

Appendix E  
Exhibit 18-K

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

JAN 24 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANTHONY K. ANDERSON,

Petitioner - Appellant,

v.

BRIAN WILLIAMS and ATTORNEY  
GENERAL FOR THE STATE OF  
NEVADA,

Respondents - Appellees.

Nos. 17-15265, 17-70203

D.C. No. 2:16-cv-02215-APG-PAL  
U.S. District Court for Nevada, Las  
Vegas

**ORDER**

The opening brief submitted on January 19, 2018 is filed.

Within 7 days of this order, appellant/petitioner is ordered to file 7 copies of the brief in paper format, with a blue cover, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. A sample certificate is available on the Court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov), at the File a Document - CM/ECF link.

The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or CM/ECF.

The Court has reviewed the excerpts of record submitted on January 19, 2018. Within 7 days of this order, appellant/petitioner is ordered to file 4 copies of

Appendix E

Exhibit 18-2

the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6.

The paper copies shall be submitted to the principal office of the Clerk. For regular U.S. mail, the address is P.O. Box 193939, San Francisco, CA 94119-3939. For overnight mail, the address is 95 Seventh Street, San Francisco, CA 94103-1526.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Stephanie M. Lee  
Deputy Clerk  
Ninth Circuit Rule 27-7

### CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing documents by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

Anthony K. Anderson  
#1082999  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

/s/ Jason F. Carr  
Asst. Federal Public Defender

Appendix E

Exhibit 1B-L



17-15265, 17-70203

Anthony K. Anderson

#1082999

SDCC - SOUTHERN DESERT CORRECTIONAL CENTER

P.O. Box 208

Indian Springs, NV 89070-0208

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**