

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,

No. 17-70203

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

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 -3

1 of 2

SLL/MOATT

(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

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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JAN 24 2018

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

ANTHONY K. ANDERSON,

No. 17-15265

Petitioner-Appellant,

v.

D.C. No.

BRIAN WILLIAMS and ATTORNEY
GENERAL FOR THE STATE OF
NEVADA,

2:16-cv-02215-APG-PAL

District of Nevada,
Las Vegas

Respondents-Appellees.

ORDER

ANTHONY K. ANDERSON,

No. 17-70203

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

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

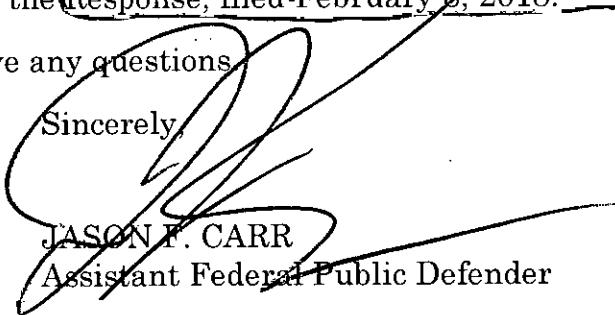
Re: Anderson v. Williams
Case No: 17-15265

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.)

6

Appendix E

Exhibit # - 18-1

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 Excerpts 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 [REDACTED] 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

Exhibit [REDACTED] 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 Z
Exhibit [REDACTED] 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 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

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**

Exhibit 4

1 COMES NOW THE DECLARANT JOHN C. WAWERNA

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

4 1. That I represented Anthony Anderson in 8th Judicial District Court Department 14, case
5 number C-10-268406-1

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

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

25 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. 6th 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 8th Judicial District Court that the
22 aforementioned boxes of evidence be returned by Mr. Odgers, Esq. to the undersigned for safe
23 keeping.

24 Appendix E

25 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 immedicably
6 leave after his court appearance for northern Nevada.

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

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

25 Appendix E

Exhibit 18-E

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

John C. Wawerna
JOHN C. WAWERNA

~~Appendix E~~

Exhibit 18 E

Date 11-8-2017

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

To: Clerk of Court Holly 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 #1082999
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 Appoint ment 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 These Orders
With INSTRUCTIONS

Appendix E

EXHIBIT #18-F

Anthony K. Anderson
#1082999

2 1/2

Also note (Attorney ~~can~~) 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 ~~Actual~~ Time

In which (APG) State was ANDERSON (One)
Shot at a Federal Hebeas.

Facts never Addressed By (Attorney Jason Caw)

In ANDERSON Plea Deal it clearly states
IF Defendant accepts Plea Deal Defendant
Min Term of 3 years. Shall not exceed 40%
of Defendants ~~Actual~~ Term of 12 years
40% of 12 years is 4.8 years
Eight Months in which U.S.D.C (APG)
was Supplied with a copy of ANDERSON
Plea Deal as an EXHIBIT in the said
Federal Hebeas Corpus concerning ANDERSON
have Confinet More and as well as
N.D.O.C. Calculation of Time

According to ANDERSON Plea Deal ANDERSON
has already Served ~~8~~ 9 years 9 months
One Agreed Plea Deal just on Count # 1
of Case (C268404) with Count # 2 Being Dismissed ~~Charged~~

(At Jason Carr lead Attorney) on #17-10203

For almost 2 years now still doesn't know
The facts of case # C268406. which leads
Jason Carr To Disregard Due Dates And
Request Extensions of Time After Extension
of Time Due To Failure To Investigate
Anderson's claims now facts of the case
By now through Research which
he now begin to pre-judge Plaintiff
Anderson as Plaintiff is saving time on
new case #2 C-268406 Both Dismissed
Charges - **K5** Claims Dismissed with
pre-judged

CP Dismissed in Clear Deal (Not
Reduced To a lesser Charge
But totally Dismissed ID Clear Bangin
C 268406-1

Appendix E

Exhibit 18-f

* 2nd Complaint *
Please Investigate

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 Being in Compliance with 9th Circuit
Court of Appeals Circuit Rule 25-2 Communication
with The Courts. This Communication is To The Person
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 Plaintiff} ~~Address Plaintiff~~

2nd Complaint CONCERNING Appointed Counsel

Jason F. Carrs Bias/Pre-judiced Actions To Ward
Plaintiff Claims. As well as Failing To Follow 9th Circuit
Orders To Present The Findings of Effective

Att. of Counsel in Accordance To 2244 (B) -

As well as Mr. Carrs Failure To Present Very

Vital Facts To The Courts CONCERNING Plaintiffs

INEFFECTIVE At. of Counsel, NOT TO EXCLUDE

Actual INNOCENCE CONCERNING Attorney

John C. WARDEN (Delcarant) Dated (May 22, 18)
which Now Through Facts of The Record

Bias AND Pre-judice Can Be Proven
As with Same offense Twice

Appendix E

Exhibit # 18-G

(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) QUOTING,
The Words of The Courts

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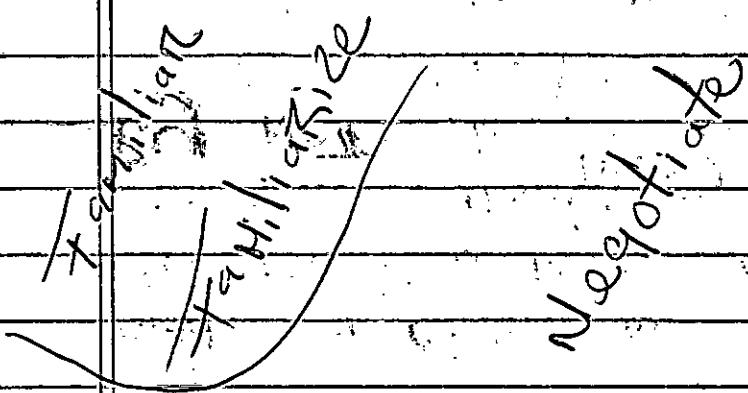
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#

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 Present

Mr Carr Also Refuses To Address Plaintiff
Separation of Powers Issues These Violations
and Complaint are also on file which
The Record Reflects As Newly Discovered
Evidence Mr Carrs Pre-Judiced Anderson
By Not Placing Issues Before The Courts
To Be Certified By The Courts which This
(Effectiveness 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



2

③ IN THE INTEREST OF JUSTICE

~~2nd~~ COMPLAINT * CONCERNING

APPOINTED COUNSEL; FROZEN THE FEDERAL
PUBLIC DEFENDERS OFFICE MR. JASON LARK
IN EFFECTIVENESS CONCERNING FOLLOWING
#1 9TH CIRCUIT COURT ORDERS, #2 HIS ABILITY TO
BECOME FAMILIAR ^{WITH} PETITIONERS ISSUES
ON APPEAL #3 HIS REFUSAL TO PRESENT
THE SAID ISSUES.

IN REGARD 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

RE: "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. CANBY, 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 LARK INFORMING THE COURT, THAT
MR LARK 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 INEFFECTIVENESS

4
NOT Following Court Orders Can Take Back
Plaintiff's claims / two OR Cause Plaintiff
To lose Facts Supported By The Record

NEVER AT NO EXPENSE OF Counsel

10 EXHIBIT # 1 First Complaint Communication

10 EXHIBIT # 2 9th Circuit Court Order
which The Following Facts were NOT

- Presented in ANDERSON Opening Brief -

1 ineffective ass't of Counsel # C-268406-1
14-70203

2 ID Page # 3 AG Answering Brief
(Guilty Plea) Agreement Enclosed 3 Separate
Criminal cases A.A. ZA, CP

5
18 how is it ANDERSON is sentenced on 4 Counts
NOT 3 ?

3 ID Page # 4 AG Response Count # 2

The STATE agreed to totally Dismiss # C 268312

CP ^{claim} NOT Reduce it to a lesser charge ID
plea Deal STATE Also Notes They will NOT seek
Indictment for Event # 0908311399 (KS) This
Ensures (KS) Case was NOT an open procedure
During Ple. Negotiations. But Facts (KS) claims
were Dismissed with Pre-Judiced -

Facts Never Answered By 8th Dist Court

(KS) NEVER Testified in open Court under
or During lower Court Preliminary Hearing
Her Case was Dismissed with Pre-Judiced
in lower Court, 8th Dist Court NEVER Given
Subject Matter Jurisdiction

⑤

(K5) Recanted 1 1/2 years AFTER her case was Dismissed with Pre-Judiced AND her initial Allegations was NEVER under OAT in a Court of law MR JASON CARR NEVER Addressed This very important issue in his opening Brief as (OTCOKED) July 12 2017 (17-15265 /17-20203
MR CARR Never ID's

MORRIS V FONALOS 264 F3d 38 2001 US App
Lexis 17388 To Sentence a Defendant on a Dismissed Charge is a clear 5th Amendment violation which contaminates The entire Procedure / Case
MR J Carr Attempts At Convincing He To Believe you can Legally Plead Guilty To a Dismissed with Pre-Judiced charge

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X
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#4 J Carr Never Investigates (clear ERROr) !
MR claims; Do NOT Entitely Rely on (K5)
Recounting as stated in (A/G's Response page # 11)

#5 The A/G Notes (ID Page #19 Response To ANDERSON'S 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 Plaintiff's issues

6

#5 ANDERSON RAISED STATE REFUSED HIS RIGHTS TO STAND/TESTIFY

#6 ANDERSON RAISED TRIAL COURT ERROR NOT ALLOWING
LEW WITH DREW (COUNSEL DID NOT)

#7 ANDERSON RAISED TRIAL COURT ERROR DURING
PRESERVING EVIDENTIARY HEARING (COUNSEL DID NOT)

#8 ANDERSON MAKES A CHALLENGE TO PRESERVATION/CRIMINAL
CALCULATION (COUNSEL DID NOT)/N.D.O.C. CALCULATION OF TIME
COUNSEL DID NOT

#9 THE 9TH CIRCUIT COURT ORDERED ANDERSON TO
INCLUDE ALL THE ABOVE IN HIS OPENING
BRIEF. COUNSEL ARGUES WITH ANDERSON CONCERNING
THESE ISSUES ORDERED BY THE COURT ON JULY 12 2017
ANDERSON'S BRIEF DOESN'T IDENTIFY ANY SUCH CLAIMS
ID EXHIBIT #3 PAGE #3

NOTE ATTORNEY J. CARR NEVER INTENDS
TO ADDRESS ANDERSON 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 MR. J. CARR
CONTAINS THEN WE COULD PREDICT AND DEVELOP
THE CLAIMS OUTLINED IN PRO SE FILING WHICH
CONCERN SEPARATION OF POWERS VIOLATIONS
WHICH MR. CARR FAILED TO DO

APPENDIX E

EXHIBIT 18-G

8

TO page #32 AG's Regarding wife (ANDERSON) has a concrete
claim that counse failed to investigate claims before accepting plea
(Attorney Jason Carr) never addressed those facts.

Appellant counse stated in EX-01 That

ANDERSON's reason for ple with-Draw was
Being The The Conting alleged Victory

THIS is clear EX-01, ANDERSON Tenu

After reading The Plea Deal He was
GOING TO Be Sentenced ON Dismissed

charges (K5) AND (CP) counse Charles
Carr Never goes over Plea Deal

with ANDERSON But emails Plea TO
ANDERSON's Email Address

- FINISH line @ Kacketail.com -

Stating Sign two letters you GOT probation
NEVER INFORMING ANDERSON he was closing
His law FIRY MR Carr Never
Investigate nor Addressed these facts

NOTE TO EXHIBIT #6

MR Carr was also made aware
That #1 Trial, counse #2 Negotiations counse
And #3 Appeal counse where all ineffective
NOT one of the above state counses

Gain possession of the entire file

which ANDERSON Makes, Attorney J Carr

Wave of TWO gives his Attorney

J Carr Waverus Contact in formation

TO confirm MR J. Carr Refuses to contact

J Carr Plaintiff Here Has tried

TO contact J Carr to Address these issues

Since April 23 TO NO Avail

4

#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 Equitable Raised
Two claims of Double Jeopardy
INVOLVING The INCLUSION OF K5 AND CP
INTO sentencing OF Count # 2

5
NEXT ANDERSON Raised Actual INNOCENCE
claims INVOLVING The conviction FOR Crimes
against K5 (Court failed to do so)

#11 ID Page #34 A/G Response is IN
EXPLANATION Fact MR Carr Doesn't have Knowledge
of At The Time of Plea K5 Case
was NOT an OPEN Plea-Courtesy, K5 Case
had Been DISMISSED with Plea-Noticed 1/2 year
(Before Plea Deal) ID Morris v. Kendols
263 F.3d 38 2001 US App Lexis, To Sentence
a Defendant on a charge That was NOT
an OPEN Plea-Courtesy During Plea Negotiations
BUT The charge/Claim was included as an
Encouragement To except The Plea is a plain
Clear Violation OF The 5th Amendment which
Contaminates The entire Procedure with NO
DE-NUVO This Never Addressed By Carr

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 Desirable Research
 And other Personal Issues That Don't
 Concern The Interest of Justice

6-20-2018

Anthony J. Anderson

Appendix E

Exhibit 18-B

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 19 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

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.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

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

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUL 12 2017

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

ANTHONY K. ANDERSON,

No. 17-15265

Petitioner-Appellant,

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

v.

BRIAN WILLIAMS; ATTORNEY
GENERAL OF THE STATE OF NEVADA,

Respondents-Appellees.

ANTHONY K. ANDERSON,

No. 17-70203

Applicant,

v.

ORDER

JO GENTRY, Warden,

Respondent.

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

Apprendi 2

exhibit # 8 - 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 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, 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~~

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.

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 13 2018

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

ANTHONY K. ANDERSON,

No. 17-15265

Petitioner-Appellant,

v.

D.C. No.

2:16-cv-02215-APG-PAL

District of Nevada,
Las Vegas

BRIAN WILLIAMS and ATTORNEY
GENERAL FOR THE STATE OF
NEVADA,

ORDER

Respondents-Appellees.

ANTHONY K. ANDERSON,

No. 17-70203

Petitioner,

v.

JO GENTRY, Warden,

Respondent.

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, 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

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