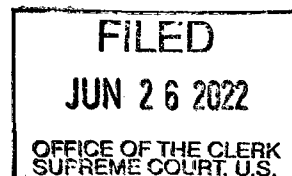


No. 22-5038 ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Kevin Lee Kennedy — PETITIONER
(Your Name)

vs.

Sheriff Dan Watts, et al... — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Ninth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

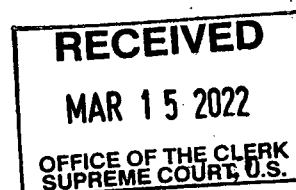
PETITION FOR WRIT OF CERTIORARI

Kevin Lee Kennedy
(Your Name)

P.O. Box 1989
(Address)

Ely, NV. 89301
(City, State, Zip Code)

(775) 289-3637
(Phone Number)



QUESTION(S) PRESENTED

1. Whether U.S. District Courts Summary Judgement is defective or void due to it only involving one of the two parties, the White Pine Sheriffs Dept. and not the N.D.O.C. defendants Director Dzurenda and Wardens. . This being a partial and unfinalized judgement?
2. Whether criminal jury trial judgement is invalid and void due to not being filed until almost two years after conviction, which involves the pre-trial detainee claim and lawfulness of arrest, affecting jurisdiction of both related cases validity of conviction and sentencing?
3. How these judgement errors effect appeals processes from State Court onto the Ninth Circuit involving Equitable Estoppel Law and Tolling of Timelines to filings of the appeals counts, also as to their jurisdiction?
4. Whether Court of Appeals errored or overlooked these issues which were raised in appellants Oppositions, Objections, Briefs, and numerous filed Motions. Then affirming Summary Judgement without considering these prejudicial impacts which had compiled more burden upon Kennedys cases preventing from being heard and raising material facts that are relevant to proceedings? and preventing any relief?

5. Whether it is prejudicial to Affirm the defendants Summary Judgement regarding Excessive Force, Failure To Protect and Due Process claims from unlawful arrest and seizure as a pretrial detainee. While appeal was still pending review petitioners Habeas Corpus is unlawfully suspended and not filed. . with numerous Declarations and Emergency Motions on file explaining the violations occurring?
6. Whether it has been unfairly overlooked that petitioner was being held as a "Safekeeper" at E.S.P. during trial and his sentencing without counsel or court access, prior to judgement or sentence where claims and judgement was based upon being a "convicted State prisoner" without it being established when one is considered such.. after convicted or after sentencing?
7. Would these judgement uncertainties had a beneficial effect upon petitioners claims and how they were to be considered, resulting in a different outcome with how Summary Judgement and appeals were decided upon? These judgements affecting the jurisdiction of the courts due to their invalidity and being unfinalized at the time...? Then, Habeas Corpus taken to prevent petitioner from gaining reversal while appeal was still pending in Ninth Circuit.

8. Whether Appeals Court has failed to consider these facts and overlooked Kennedys arguments raised upon the record, now working to his unfair detriment and resulting in a Miscarriage of Justice? With declarations and emergency motions on file.
9. Whether the unlawful suspension of Kennedys Habeas Corpus petition is in direct violation of his protected Fundamental Constitutional Rights, adversely affecting his 2 1983 claims and how this is to be considered and dealt with by law?
10. Whether these violations are of an unprecedented nature with "Exceptional Circumstances" held apart from any other clearly established Federal Laws? A matter of Public and National Importance that requires determination by this countrys Great Court to address this Right to Redress and have Access to the Courts under the U.S. Constitution for the people of Americas benefit?

petitioner, *Kevin Kennedy*

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Sheriff Dan Watts
Captain Scott Henroid
Lt. Sawyer
Srgt. Mingo
Deputy Caleb Sumrall
Nurse Brandi Sumrall

Deputy Luke Shady
Deputy Nick Lopez
Deputy Shannon Casarez
Jacob Strouse
Director Dzurenda
Warden Tim Filson
Warden William Gittene

RELATED CASES

- CR-1703024- Seventh Judicial District Court, White Pine, NV.
- 17-CR-00041-7K- Justice Court, Ely White Pine, NV.
- 76679- Nevada Supreme Court of Appeals
- 81729- Writ of Mandamus
- 83419- Writ of Mandamus
- 20-15414- Ninth Circuit Court of Appeals
- 2:21-cv-01358-RFB-DJA- U.S. District Court, Nevada.
Civil, 1983 and Injunction pending.

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- APPENDIX B U.S. District Court, Nevada Judgement, Civil Complaint, Screening Order and Docket Sheet filings.
- APPENDIX C Nevada Supreme Court Docket Sheets, Writs of Mandamus and Orders.
- APPENDIX D Ninth Circuit Appeals General Docket, Judgements, Numerous Motions and Appeal Briefs. .
- APPENDIX E U.S. District Court, Nevada Screening Order, Docket Sheets, Injunctions, Habeas Corpus deprivation evidence.
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix D to the petition and is

☐ reported at Ninth Circuit Court; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at District of Nevada; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☒ reported at Nevada Supreme; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Seventh Judicial Dist. court appears at Appendix A to the petition and is

☒ reported at White Pine County; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was January 25, 2022.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: April 18, 2022, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A-_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was February 11, 2020. A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: December 18, 2020, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A-_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Article I § 9, Habeas Corpus shall not be suspended.
U.S. Const. Article III, Judicial Powers vested in Supreme Court.
U.S. Const. Article IV, Citizens Rights and Jurisdiction.
U.S. Const. Article VI, Constitutional law of the land.
U.S. Const. Amends. I, Redress of Grievances.
U.S. Const. Amends. 4, Search and Seizures.
U.S. Const. Amends. 5, Due Process/Equal Protection.
U.S. Const. Amends. 6, Right To Fair Impartial Trial.
U.S. Const. Amends. 7, Suits and Trials of Common Law.
U.S. Const. Amends. 8, Cruel and Unusual Punishment.
U.S. Const. Amends. 14, Due Process/Equal Protection.
Nevada Const. Art. 1 § 1, Rights and Liberty Interests.
Nevada Const. Art. 1 § 3, Trial by Jury
Nevada Const. Art. 1 § 5, Suspension Habeas Corpus.
Nevada Const. Art. 1 § 6, Cruel and Unusual Punishment.
Nevada Const. Art. 1 § 8, Rights of Accused/Due Process.
Nevada Const. Art. 1 § 9, Liberty, Freedom of Speech.
Nevada Const. Art. 2 § 18, Search and Seizures.
Nevada Const. Art. 6 § 4 and 6 § 6, Certiorari Writs.
Civil Rights Act of 1871. and 1983 Civil Complaints.
Supremacy Clause of U.S. Constitution.
28 U.S.C. 2241-2254. Habeas Corpus. NRS. 34.720-34.810.
Federal Rules of Civil Procedures.
Federal Rules of Appellate Procedures.
A.E.D.P.A. and P.L.R.A. . . .
Supreme Court Rules.

STATEMENT OF THE CASE

It is very relevant and important to consider that just prior to this criminal case and 2 1983 action petitioner Kennedy had just been released from this Ely State Prison in late September 2016 back into the nearby community of Ely NV. This after serving over twelve years on a 5 to 20 year habitual criminal adjudication where prior misdemeanor petty-thefts were used for stealing alcohols, where jury trial found guilty for Attempted Burglary in 2003 case # CR-0307045 by this same Seventh Judicial District Court, White Pine County.

There was no relief granted by appeals or habeas corpus, the U.S. District Court of Nevada had stated then, the "case was rare and unique and no other cases like it could be found in the entire United States". Petitioner expired the term and was released back into the town where family resides, case summary are attached herein Appendix-A.

Petitioner Kennedy unfortunately got involved with this current case in February 2017 involving a barfight against two others in self defense, this involved numerous other felonies that petitioner did not commit, but was found guilty of all from another jury trial and another habitual criminal sentence of 9 to 32 years! Where the court used the prior Attempted Burglary and an invalid conviction in case # CR-1703024. The case shows numerous Substantial Rights violations that are clear reversible errors, Case Summary, Judgement and Sentencings attached herein Appendix-A.

While in the county jail awaiting trial this civil rights suit was filed on August 7, 2017 raising claims against the White Pine Sheriffs Dept. involving unlawful arrest and seizures, excessive force, failure to protect and due process violations. After trial conviction petitioner was immediately transferred out to E.S.P. on February 20, 2018, held as a Safekeeper in Death Row unit to await sentencing.

The following morning plaintiff was taken out to meet with the Warden Timothy Filson on February 21, 2018 where it was learned this man had just sat on the jury panel at trial. During this personal visit the Warden revealed the case was "unfair and was targeted by prosecution and he didn't know why? but they do this to certain persons like myself," said it has been that way around here since he was a kid." We went on to speak of issues from trial and "he had spoken to the District Attorney and he wanted myself to be aware and prepared that myself would be receiving the habitual sentence." The conversation continued for about fifteen minutes then returned back to the cell, these facts explained in the filed complaint that was then Amended due to this incident and discovery.

Complaint was amended on August 8, 2018 and allowed to proceed upon the three claims by Screening Order filed on November 19, 2018. The other claims involving the criminal case issues were not allowed to proceed due to Heck-v-Humphrey requirements, until reversal or invalidation was accomplished first.

The complaint, screening order and docket will be attached herein Appendix-B. Let it be known that when the complaint was originally filed other county inmates also filed against the Sheriff's Dept. This resulted in the named defendant Sheriff Dan Watts, Lt. Sawyer and Jailors to retire all at the same time. Petitioner also reported violations to the Department of Justice and Attorney General's Office, afterwards treatments and prosecutions ramped up against Kennedy..

These defendants and warden were never served subpoenas, could not be located in the small town of Ely, NV. these were the main defendants in the case. This was prejudicial and unfair to the claims, objected and complained to the courts on filed (Document-36) Motion To Stay Claims regarding the criminal claims and Habeas Corpus relief.. (Documents-38) Notice of Service and (Documents-39 and 40) Orders showing plaintiff Kennedys need to preserve his claims, also as to the unserved defendants. These also attached herein Appendix-B, docket showing numerous Unexecuted Summons (Documents-48-60). Then to Kennedys Objection to Courts Order allowing case to go forward without main defendants being served summons, (Document-62).

These named defendants directly connected to both criminal and civil cases being the Sheriff Watts, Lt. Sawyer and Jailors had to leave positions, resulting in the selective prosecution and retaliations. Onto Warden Tim Filsons placement upon the panel to convict on all charges and placement as Safekeeper at his prison prior to being sentenced.. See Deposition Hearing..

This Warden Filson gained access upon the jury by stating during Voir Dire that "when he moved back to Ely, NV. that he and his daughter were pulled over by police at gunpoint felony stop while taking her to a soft ball game", where he was accused of eluding. This being the same scenerio involved with Kennedys arrest and seizure issues which was unlawful.. There were also ineffective assistance of counsel issues that were reasons for firing counsels for not pursuing such defenses prior to trials.. clearly raised in this civil complaint.

This juror did not mention being the Warden of E.S.P. nor was he even ask by counsels. Suspiciously this was not peremptorally challenged by the State which should have drawn question after hearing such a statement by Warden Filson, he also stated "the charge was unfounded and they were allowed to go on their way". This certainly gaining Kennedys enthusiasm and hopes to keep him on as a juror, this done to gain access onto the panel and convict petitioner Kennedy, where he later admitted all these types of things on February 21, 2018. A serious clear violation of right to fair and impartial jury trial.

A few weeks after the meeting with Warden Filson he was forced to retire and taken out of the prison for he had been under investigation for other civil issues and crimes of fraud and embezzlement allegations from within the prison involving government auction vehicles. This was widespread talk through inmates and officers, known through the Attorney General Offices, all while he was placed upon the jury.

These facts and claims are raised throughout the entire case complaint, deposition hearing, interrogatories, oppositions and upon appeal filings with the Ninth Circuit, these also herein the record, Appendix-B. The other Warden Gittere and Director Dzurenda acknowledging such facts, showing they knew of his involvements.

In addition there was another juror by the name of Jones involved in this jury matter, where a few days after arriving at E.S.P. maintenance arrived to fix petitioners hot water. When seeing Mr. Jones petitioner said "dude aint you from the jury trial," where he responds, "Kennedy!" seeming a bit surprised to see myself there, he goes on to state "we tried man there were just too many Liberals," fixed the water and left. All these things can be verified by the trial record and selection process, this contributing to prejudice because Warden Filson was his boss at this time.

There was also an older man on the jury by the name of Jones who after being selected came back into court with bailiff requesting to be taken off the panel. Stating "he did not want any problems with the local police, or being involved with putting someone away!" The Judge Fairman stating "I've never heard of such things happening," judge said the same thing about that body camera video that was a reason for firing counsels prior to trial. That video would have exonerated Kennedy and showed unlawful arrest and seizures, also falsified reports.

While being held as this safekeeper the trial court continued sentencing date from April 16, 2018 until July 16, 2018 without good cause. It would later be learned that this was done so the State District Attorneys Office could receive Confidential Records from with the N.D.O.C. State Repository Archives in violation of State and Federal laws without subpoenas or court orders. This was aided by the Ely State Prison and Offenders Management Division who had Kennedy transported and held as a safekeeper without counsel or court access.

These State Officials provided the records to help the prosecution overcome their burdens with an invalid prior conviction containing an incorrect name and social security #, by and through the same persons who convicted and holding at prison awaiting this sentencing, just like Warden Filson had said would occur. Where at the continued sentencing the Judge Fairman had said "he had already determined petitioners sentencing after being convicted," prior to the hearing... Also, the court, state and counsel allowed the county jail Sgt. Mingo to testify at sentencing to identify and authenticate the invalid records. This Sgt. Mingo who not only knows and is familiar with Kennedy from county jail, but from prior incarceration term from E.S.P. that he had just been released from. Petitioner Kennedy and Sgt. Mingo know each other from prison, now he is allowed to be involved at sentencing phase, all clearly shown in sentencing transcript in Appendix-A.

Plaintiff Kennedy would not become aware of the Confidential Records dissemination until trial counsel Sherburne Macfarland was finally removed off Nevada Supreme Court case # 76679. Where this attorney was not even suppose to be counsel any longer for he was fired off the case prior to jury trial at a related D.U.I. bench trial on February 7, 2018 in case # 17-CR-00041-TK, where Kennedy proceeded pro se. This counsel and previous counsel Dylan Frehner and Shain Manuele were all fired over a body camera video that was being withheld that would have gotten charges dismissed.

Yet Macfarland was allowed to proceed through trial and destroy the entire case, petitioner was not allowed to testify on own behalf for self defense, not to call witnesses of brothers involvement with incidents and his found firearm, no expert witness for P.T.S.D. issues, body camera not used or even mentioned. All of these reasons petitioner pursued trial and received none of it by counsel who was to be off the case, without holding evidentiary hearing!

This the reasons why he was removed off the criminal appeal by the filing of a Memorandum on April 22, 2019 that contained numerous pro se complaints regarding ineffective counsel issues. For not pursuing unlawful arrest issues and body camera video evidence that supported unlawful arrest and seizures. This D.U.I. trial was held separate to increase "eluding and escape" charges into felonies, when they were to be a joinder of offenses by law, possible Double Jeopardy?

This appointed counsel Macfarland came after the removal of Dylan Frehner and Shain Manuele from Lincoln County because of the same body camera issue and not raising the unlawful arrest claims in a pre-trial habeas. Plus during the Preliminary Hearing on March 14, 2017, Dylan Frehner continued until March 28, 2017 to aid prosecution to obtain the blood draw toxicology results which were used to add the element of D.U.I. to eluding and escape, bumping them up to felonies and bounding over to trial. This the reason used for arresting Kennedy, where there was no eluding committed and not arrested for D.U.I. or even charged, rendering it unlawful arrest and seizures.

This directly connected to the blood draw claim and its convictions, all carried out with no probable cause or warrant requirements, explained in this civil action. Which was not allowed to proceed because of Heck-v-Humphrey law, where the criminal case shows unlawful arrest and actual innocence of these convictions, prevented from raising in civil case.

Shain Manuele was allowed to take over the case from there even though he was not appointed having no Notice of Appearance, it was later learned he was not even a White Pine County Public Defender at this time.. Where Dylan Frehner was replacing District Attorney Daniel Hodge of Lincoln County, who was moving up to Nevada State Bar, all these persons were from Lincoln County together! Then, Macfarland was appointed from Elko NV. because no attorneys in Ely could be involved with the case..

The involvement of the Offenders Management Division with record and sentencing issues were discovered after the removal of counsel Macfarland where he provided transcripts and discovery documents from sentencing on around late October 2019. Keep in mind this O.M.D. is the same entity holding Kennedy at prison as a safekeeper from county jail.

Here another counsel Kirsty Pickering was appointed from White Pine County where she informed Kennedy she "had been a District Attorney for seven years with Richard Sears" who had prosecuted petitioner on the first case getting that 5 to 20 year term for petty-theft priors, who now is the head Public Defender in White Pine Ely NV. during this time of trial and appeals. Pickering was allowed to and choose to use Macfarlands five page opening brief which raised only one claim of insufficient evidence, stating during our visit "most of petitioners claims are of Habeas Corpus issues", here no claims would be preserved or raised for future use.

This creating a conflict of interest where Nevada Supreme Court would not allow her to be replaced or for her to even withdraw off the case which she filed for on September 16, 2019, conflict also from her not correcting or supplementing the insufficient opening brief. It was also later learned she was sister to the Supreme Court Justice, Kristy Pickering where petitioner was filing his concerns and complaints, surely it was known this could be an issue. These filings located in the attached Docket Sheets herein Appendix-C. Most of petitioners documents were lost in the suspended Habeas.

Shortly thereafter the Nevada Supreme Court finds there is not a filed Judgement and Sentence, ordering trial court to provide one, Order filed on December 3, 2019. Instead the court created an "Amended Judgement", Nunc Pro Tunc on December 5, 2019, because there was no filed or entered judgement available. This being discovered after numerous filings and rulings of these courts and appeals proceedings, nearly two years after being convicted. Courts not having jurisdiction over the cases due to unfinalized and invalid judgement.

These issues connected to and very relevant to this civil 21983 civil complaints jurisdiction for the claims raised involve the arrest and criminal offenses which effects the blood draw excessive force, failure to protect and due process safekeeper violations. All stemming from unlawful arrest and conviction found to be not filed or properly before the courts, Also, the claims from Screening Order (Document-24) were based off of being a "convicted State prisoner", then the States Summary Judgement was also granted on the same assumption of being convicted, (Document-120) itself holds deficiencies which are also unfinalized and only partial judgements for it only involves one of two parties, excluding and not involving the N.D.O.C. defendants. See Appellants Opening Brief..

This affecting the Ninth Circuits jurisdiction over appeals process because it is only a "partial judgement" according to laws.. These issues were all contested, objected to and raised before these courts without resolution or any considerations. ?

Petitioner Kennedy attempted to have these issues addressed prior to appeal judgement via pro se' filed documents and requests.. raising jurisdictional issues with judgements and professional conduct duties where in addition to, counsel would not provide Kennedy with his court records for Habeas Corpus even after court orders directing her to do so filed on May 13, 2020, also a Motion to Compell. Yet, she allowed to withdraw and leave Kennedy without case records or contesting the validity of the unfiled judgement, this pursued by a Writ of Mandamus filed on September 1, 2020, denied without entertaining or ruling upon the merits, attached herein Appendix-C. Case # 81729..

Also, in connection to these issues the Summary Judgement was supported by Kennedys arrest blood draw video from county jail contained in States (exhibit-8) to show the act was in accordance with laws. However, petitioner was not allowed to use criminal validity or probable cause in his claims due to Heck-v-Humphrey law.. This prejudicial video also showed petitioner stating "he had just been released from a prior habitual sentence of 5 to 20 years," also shown to the jury at trial not in accordance with NRS. 207.010-016 habitual law, where such things are not to be alluded to at trial, coupled with the fact the Warden was sitting on the jury panel! See video..

This surely having an adverse effect onto the U.S. District Courts judgement with the entire case, also was allowed to use petitioners P.S.I. Report showing criminal history to the counts, adding to the prejudices and judgement.

At these same times both cases were running parallel to each other simultaneously being considered by two separate courts involving the same issues, events and parties, originating from the same criminal arrest trial, conviction and sentencing. The Nevada Supreme Court affirming direct appeal case # 76679 on February 11, 2020 and the U.S. District Nevada granting Summary Judgement the following day on February 12, 2020 in a partial judgement. Where defendants did not overcome their burdens of showing there was no material facts for a jury to decide upon. Oppositions and Objections not fairly entertained.

The cases continued forward together, the criminal onto Habeas Corpus and the civil onto the Ninth Circuit case # 20-15414, where numerous acts of prejudice and violations occurred against Kennedy. Beginning with certain issues that seemed to favoring the State defendants by allowing extensions of time via "Streamline Request" not in accordance with rules by required motion, even after deadline to file Answering Brief had past.. Also, as to judgement and jurisdictional questions not entertained, documents attached herein with General Docket Sheet in Appendix-D.

During this appeals process petitioner was pursuing grievances involved with the record disclosures by the O.M.D. exhausting remedies so it could be filed upon into civil litigations by State Officials being involved with conviction, sentencing and holding as a safekeeper while they were carrying out these acts. Also, Habeas Corpus was being completed while at High Desert State Prison where retaliations occurred.

Petitioner perfected and timely sent out the Habeas Corpus prior to Remittitur date of March 9, 2020, Habeas petition sent out via signed Brass Slips for \$9.05 each after being weighed for postage amount by mailroom officer, shown upon Monthly Statements of April 2020, deductions from accounting for the Habeas and other legal mailings that followed inquiring to the whereabouts and filing of the petition.

Here numerous Emergency Motions, Complaints and Declarations were filed into the Ninth Circuit and U.S. District Courts all explaining retaliations and Court Access Deprivations, also mail tamperings. Where here Kennedy came under attack by inmates by staff labeling a snitch to the general population, crossing petitioner out resulting in a death hit being placed upon Kennedy. All explained in the records begging for help and intervention which never came, left in the locked cell 8A-29 for months while this continued on, these documents attached herein Appendix-D. This appeal affirmed upon by Memorandum filed on January 25, 2022, without considering any of the filings..

Petitioner had filed upon these violations to U.S. District Court 21983 complaint filed on July 19, 2021 and Injunction filed on August 20, 2021, where nothing was considered until eight months later, dismissing claims and injunction on March 8, 2022 by Screening Order. Court dismissing due to the Heck-V-Humphrey again, even though the case claims were that Habeas was being unlawfully suspended!

Please see all the filings associated with these violations that are being allowed to destroy civil rights cases and from obtaining any available relief from this conviction and sentence. Also, numerous motions and requests were sent to Seventh Judicial District Court and Nevada Supreme Court to include another Writ of Mandamus which was also denied! which is attached in Appendix-C for reviewing. Case # 83419.

From petitioners understanding this Screening Order is also not valid and is unfinalized because the Injunction is to be set out in a separate order and none of the involved claims were fairly addressed. Considering the violations are of Habeas Corpus suspension and the court used that as a basis to deny any relief or even be able to proceed.. shutting Kennedy out of any relief of both cases. This without any type of hearing or even ruling upon the Injunctions, these Docket Sheets and filings will be attached herein Appendix-E, along with plaintiff's evidence of Habeas Corpus and legal mailings not filed by the courts. Plaintiff had to Amend this complaint in order to save this Habeas deprivation claim and criminal case relief.

A Motion To Rehearing, En Banc was filed on March 2022 which was denied recently on April 18, 2022, this known to this U.S. Supreme Court which held off this Writ of Certiorari at that time petitioner had attempted to originally file. Now that it is concluded Kennedy comes now to this Great Court for help and clarification in this unusual Exceptional Circumstance to correct these Fundamental Rights violations.

Ninth Circuit Court issued Mandate on April 26, 2022, this case involves and is directly connected to all pending cases where there is no available relief now. This case had originally requested the complaint be considered as a Habeas Corpus with Injunctive relief to be provided due to unlawful arrest and seizures. Then it flowed into unlawful convictions and sentencing by N.D.O.C. and State Officials, plus numerous other trial violations that would reverse or have case dismissed entirely. Now the Habeas Corpus taken away to prevent any relief and Right To Redress, in an unprecedented case with "Exceptional Circumstances" that must be handled by this high court, in the Interest of Justice and Public and National Importance involving these Fundamental Rights guaranteed by our U.S. Constitution.

This court having Supreme power and authority to protect Kennedy and uphold all laws under U.S. Article I, 9, Article III and Article IV, also to draw up and Consolidate related cases which are connected together so facts can be reviewed as a whole nexus involving judgements and jurisdictions of the courts, under F.R.C.P. 42.

There are also other recent filings that have yet to be entertained by these lower courts including a Motion To Stay Injunction and Stay of Mandate, which has been attempted to be filed by E.S.P. law library with no responses or filing, these will be shown and attached in the previous Appendix-D with other Ninth Circuit related filings and correspondences with this court, please help me... and grant this writ.

REASONS FOR GRANTING THE PETITION

There does not appear to be any case precedent regarding this type of deprivations which evolved into Exceptional Circumstances by involved parties acting under color of State law with both criminal and civil actions which are related and dependant upon each other for relief to be obtained. . . Then the same State entities unlawfully suspend Habeas Corpus right to seek Redress and deprive Access To Courts taking away all available remedies for relief. Where the U.S. District uses as a basis to deny claims from proceeding due to no Habeas Corpus exhaustion requirements.

Writ of Certiorari properly before this court for compelling reasons and discretionary powers of jurisdiction under U.S. Const. Article III and IV. To address and resolve issues and violations of Constitutional Laws of the Article 1, 9, Nevada Const. Article 1, 5 and NRS. 34.720-34.810, regarding Habeas Corpus protections relating to this Civil Rights Complaint under 42 USC. 1983 and Civil Rights Act of 1871, also Injunctive Reliefs under F.R.C.P. 65., linking and creating a Nexus between cases involved.

Causing injury and irreparable harms by having no way of exercising relief or to seek Redress under the 1st Const. Amends. and Due Process of the 14th Const. Amends. From an unfair and right to impartial jury trial of the 6th and 7th Const. Amends, Nevada Const. Article 1, 3, State-v-McClear, 11, Nev. 39, Lexis. (Nev. 1876) and Rains-v-State, 83, Nev. 58, 422. P.2d. 541. (Nev. 1967). These in conflict with the Constitution and governed by Supreme Court Rule 10.(a) .(b) and (c).

These retaliations and Court Access deprivations of suspended Habeas Corpus occurred while civil actions were pending in the Ninth Circuit and being pursued in the U.S. District, failing to entertain or consider how the deprivations are affecting the outcome and decisions involved because they are dependant upon Habeas Corpus relief. This a matter of important questions of State and Federal laws and is a departure from accepted and usual course of judicial proceedings.. Calling for the exercise of this Courts Supervisory Powers that should be settled by this high court.

Nevada State Officials who are also named defendants are responsible for all violations, where courts are prejudicially applying Heck-v-Humphrey, 114, S.ct. 2364, L.ed.2d. 383,512.(1994). to chill petitioners right to Redress, causing confusion and impediments to any relief under, Preiser-v-Rodriguez, 411, U.S. 475, 36.L.ed.2d.439. S.ct.1827.(1973). This done to destroy case claims and relief under, Johnson-v-Avery, 393, U.S.483,485, (1969). and in, Pratt-v-Tarr, 464, F.3d.730-731.(7th Cir.2006).

Directly stemming from criminal case judgement and void sentence that was not even filed or discovered until almost two years later, not in compliance with NRS. 176 and 177. also Appeals Procedures in Rule-4. affecting courts jurisdiction over the cases rendering judgements a nugatory.. Calling into question the U.S. Districts judgements because it is based off of criminal conviction and sentencing.. which in itself is unlawful and invalid.

All cases and claims are based upon the legality of arrest, seizures, the lawfulness of conviction and sentencing, also pretrial detainee status, where Kennedy was being held away in Administrative Segregation from counsel prior to being sentenced or adjudicated.. convicted by the Warden who was holding him at his prison, where the O.M.D. aided in sentencing.. then come to find out the judgement not even filed! Murray-v-Walker, 51, F.3d.714,718,(7th Cir.1995)..and in Bell-v-Wolfish case. petitioner was not a convicted State prisoner.

This effecting everything involved with appeals and jurisdiction, also to tolling of times to filings, etc.. then these officials dont file or destroy Habeas Corpus and use it to destroy civil relief. Violating more rights under 28 USC, 2241-2254 and P.L.R.A. 18 USC, 3626. also 42 USC, 1997(e) leaving no available remedies for relief.. Thomas-v-Woolum, 337, F.3d.720.(2003). Depriving Kennedy of all personal Liberty under, Fay-v-Noia, 372, U.S. 391, 423. 83, S.ct.822.9, L.ed.2d.(1963).

This could give Kennedy release from custody by a "Release Order", reviewable under Collateral Order Doctrine, 28 USC, 2284. These facts involve the Judicial Process Fairness of the courts, raising questions of integrity with trial conviction and sentencing, involving Structural Errors in, Arizona-v-Fulmanate, 499, U.S. 279. 111, S.ct.1246,(1991). For petitioner being held illegally and Actually innocent of crimes that were used for probable cause for arrest resulting in a Miscarriage of Justice, Murray-v-Carrier, 477, U.S. at 496. L.ed.2d. 397. 106. S.ct..

Petitioner being deprived of laws pursuant to Bounds-v- Smith, 430, U.S. 817, 821. (1977)... flowing into Equal Protection and Due Process violations of the 14th Const. Amends. . under Wolff-v- McDonnell, 418, U.S. 539, 556, (1974)... petitioner being treated unlike any other persons known without protections of law under duties of the Supremacy Clause, and in Gaines-v- State, 116, Nev. 359. (2000), "involving similiarly situated persons," yet this case is unlike any other precedent. ? Nobody has been convicted by their Warden and sentenced by the same prisons Offender Management Division, where judgements are not even valid, then Habeas is taken away by the State Officials and Courts!

Where there are numerous Substantial Rights violations that would give reversal and freedom, where now case is timebarred by NRS. 34.726, Pellegrini-v- State, 34. P.3d. 519, Lexis, 80, (2001). rendering procedural default. Violating the Prison Litigation Reform Act, 42 USC 21997(e). and any Antiterrorism and Effective Death Penalty Act. also federal Habeas law 28 USC 2241-2254. Kennedy stripped of all and still not provided his day in court or to be heard, shown throughout the entire records..

United States government is Supreme within sphere of action. Dobbins-v- Commission of Erie County, 41 U.S. 435, 10, L.ed. 1022. 4, A.F.T.R. The U.S. Constitution is paramount under, In re Quarles, 158, U.S. 532, 15, S. ct. 39. L.ed. 1080. (1895). Courts to inquire into constitutionality and not pass upon it to avoid any injustices, Alma Motor Co.-v- Timken Detroit Co. 329 U.S. 129. 67. S. ct. 231. L.ed. (1946)...

Pro Se Kennedy prays for protection of the U.S. Constitution by this Supreme Court under authority of Article III and Article IV and Article VI(2). This being an illegal imprisonment under Suspension Clause of Article I, 9 and procedures set forth in the Detainee Treatment Act. This Extraordinary Circumstances deserving of special treatment in, Aronson-v-May, 85, S. ct. 3, 5, 13, L. ed. 2d. 6. (1964). . . Causing irreparable harm and danger where Kennedy has been made a victim of unconstitutional incarceration that is ongoing warranting equitable relief, Williams-v-Lane, 851, F. 2d. 867, 883-84. (7th Cir. 1988). . . No need to seek redress in State forum now due to violations and already lengthy delays under, Monroe-v-Paper, 365, U.S. 167, 5, L. ed. 2d. 81. S. ct. 473 (1961). . . and McNeese-v-Board of Education, 373, U.S. 668, L. ed. 2d. 622. S. ct. 1433, (1963). . . Requiring immediate determination under Rule-11.

This case and circumstances deserving involvement of this court's hand of justice to include F.R.C.P. 54(b) undue delays and abuse of discretion, Berkeley Inc. Group-v- Colkitt, 259, F. 3d. 135, 50. 1 Fed. R. Serv. (2nd Cir. 2001). . . U.S. Supreme Court can review judgements on its own if questions exist, Liberty Mutual Co.-v- Wetzel, 424, U.S. 737, 96, S. ct. 1202, L. ed. 2d. 435, . . Fed. R. Serv. 2d. (1976). . . As to the partial judgements involving only one party, and in recent complaint dismissed all but one claim by Screening Order effecting appeals jurisdictions and no reasons for delays in doing so, adding to prejudice and relief under, McAdams-v-McCord, 533, F. 3d. 924. 71. Fed. R. Serv. (8th Cir. 2008). . . with no de novo review by court of appeals. ? see filings in Appendix-D.

Jurisdiction of appeals courts extend to final decisions and judgements where here we have none from the very beginning with the criminal case from F.R.A.P. 4(a).. and N.R.A.P. 4 which is directly connected to civil claims and Summary Judgement of being a "convicted State prisoner", which Kennedy was not legally.. no final appealable order or judgements pursuant to State judgement and sentence, onto 28 USC § 1291, Rule 54(b).. Issues were raised on the record and upon briefing but not entertained?

This causing a continued whirl pool with repeated appeals that go nowhere except back down and around, especially now these people have taken Habeas Corpus away, leaving Kennedy marooned without any way to appeal or seek redress. This placing petitioner cases in danger of being rendered moot and never making it past screening again and again... The case would stagnate as a premature Notice of Appeal does not ripen until entry of final judgements, where the civil judgements hinders off the criminal, which is also unlawfull and invalid, suspended by no Habeas Corpus filing.. deliberately done to destroy Kennedys cases.

Onto F.R.C.P. 58 applicability to judgements finality that do not contain elements necessary for effective appeals in, Sears-v-Austin, 282, F.2d. 340. (9th Cir. 1960). here judgement is void of any information and is partial pertaining only to Report and Recomend.. (ECF-117) and Summary Judgement (ECF-84), White Pine Sheriff's Dept. not N.D.O.C. defendants.? overlooked and not even considered despite petitioners filings and upon appeal.. in 28 USC § 1291-1292.

The laws with judgement issues are vast and overwhelming texts for a pro se litigant, but it continues on through F.R.C.P. 59-60. which also pertains to Kennedys violations by the Altering and "Amending Judgements", where criminal trial court did this almost two years after conviction, after the case was well into Nevada Supreme Court Appeals process, far too late according to laws of F.R.C.P. 59(e).. also there was a Motion For New Trial filed by petitioner that was not resolved, all while that counsel was to be off the case and appeals.. now without any Habeas relief.

These jurisdictional errors entitling to relief and release from this unlawful detention pursuant to F.R.C.P. 60(b) 4, judgement is void. coupled with the fact that Habeas is being unlawfully suspended shown in case #2:21-cv-01358-RFB-DUA.. depriving of any relief, reviewable and jurisdiction vested in this high court who will uphold the law and protect the rights of Kennedy according to the Constitution of the United States..

Where I hereby swear all statements are true facts that can be proven under the penalty of perjury under laws of the United States of America, and will testify to the same.

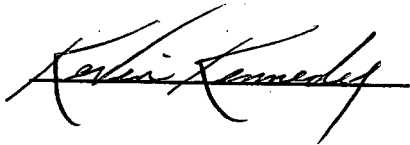
Signed and dated this 9th day of June 2022.

petitioner, 

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Kennedy", written over a horizontal line.

Date: June 9, 2022