

No. 23-7052/23-6846

IN THE
SUPREME COURT OF THE UNITED STATES

Shirron Gayles-Zanders — PETITIONER
(Your Name)

VS.

State of Nevada — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari *(Retraining)* without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Nevada Court of Appeals / Nevada Supreme Court
Eighth Judicial Dist. Court / Clark County

☒ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

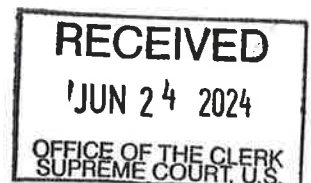
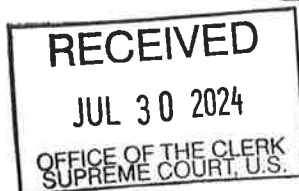
☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

_____, or

☐ a copy of the order of appointment is appended.

Shirron Gayles-Zanders
(Signature)



**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Shimon Gayles-Zanders, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income:	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>
			\$ <u>0</u>
			\$ <u>0</u>

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A (None)</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>
			\$ <u>0</u>
			\$ <u>0</u>

4. How much cash do you and your spouse have? \$ 0
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>N/A</u>	\$ <u>0</u>	\$ <u>0</u>
	\$ <u>0</u>	\$ <u>0</u>
	\$ <u>0</u>	\$ <u>0</u>

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value 0

☐ Other real estate
Value 0

☐ Motor Vehicle #1
Year, make & model N/A (None)
Value 0

☐ Motor Vehicle #2
Year, make & model N/A (None)
Value 0

☐ Other assets
Description None
Value 0

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>None</u>	\$ <u>0</u>	\$ <u>0</u>
<u>None</u>	\$ <u>0</u>	\$ <u>0</u>
<u>None</u>	\$ <u>0</u>	\$ <u>0</u>

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>None</u>	<u>None</u>	<u>None</u>
<u>None</u>	<u>None</u>	<u>None</u>
<u>None</u>	<u>None</u>	<u>None</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home) <u>N/A</u>	\$ <u>0</u>	\$ <u>0</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>0</u>
Food	\$ <u>0</u>	\$ <u>0</u>
Clothing	\$ <u>0</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>0</u>
Life	\$ <u>0</u>	\$ <u>0</u>
Health	\$ <u>0</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>0</u>
<hr/> Installment payments <hr/>		
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Credit card(s)	\$ <u>0</u>	\$ <u>0</u>
Department store(s)	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>0</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

N/A

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I have been incarcerated for over six years and all of my finances are completely exhausted & depleted

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 14th, 2023

Sharon Gayles-Zandess
(Signature)

No. S.E. #23-7052/23-6846

IN THE
SUPREME COURT OF THE UNITED STATES

Shimon Gayles-Zanders — PETITIONER
(Your Name)

VS.

State of Nevada — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO (Rehearing)

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

PETITION FOR WRIT OF CERTIORARI for (Rehearing)

Shimon Gayles-Zanders
(Your Name)

4370 Smiley Rd
(Address)

Las Vegas, NV. 89115
(City, State, Zip Code)

None
(Phone Number)

5th 6th & 14th Amend. Questions

1. Was petitioner deprived of her right to [counsel] for her defense on appeal, but also limited the petitioner constitutional right of equal access to the appellate process?
2. Was petitioner deprived of her right to preserve her Constitutional claims for review in both state & federal Habeas proceedings?
3. Was petitioner deprived of her 6th right to hire a private counsel of choice?
4. Was petitioner deprived of her due process of law guarantees of the 5th 6th 14th Amendments guarantees to a fair state appellate process?
5. Did counsel provide Constitutionally deficient performance?
6. Was petitioner deprived of her right to protect & preserve her adversary process?
7. Was petitioner deprived of her right to choose what Meritous claims to pursue on direct appeal?
8. Did the Nevada higher courts deprive petitioner of her right to a conflict-free counsel?

Cases	(Table of Authorities Cited)	Page No
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Argersinger v. Hamlin, 407 U.S. 49, 32 LEd 2d 530, 92 S.Ct. 2006 (1972)		7
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C.F. Bearden v. Georgia, 416 U.S. 660, 74 LEd 2d 221, 103 S.Ct. 2064 (1983)		7
Coleman 501 U.S. at 750		11, 13
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Davis v. Kramer, 167 F.3d, 494-496-98		9, 15
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Foretta v. Calif., 422 U.S. 806, 819	(1975)	9
Fay v. Moia, 372 U.S. 391		13
Harris v. Nelson, 394 U.S. 286, 300		14
Griffin v. Illinois, 351 U.S. 12, 17 100	(1957)	7, 9
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Jones v. Barnes, 443 U.S. 745, 758, 1	(1983)	
Mempa v. Rhay 389 U.S. 128, 134, 19 LEd 2d 334, 88 S.Ct. 254	(1967)	7
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Robinson v. U.S. 638 F.Supp 2d 764 (2009)		6,
Smith v. Robbins, 528 U.S. 259, 285, 120 S.Ct. 746, 145 LEd 2d 756 (2000)		15
Roe, 528 U.S. at 483		9, 15
Stuckland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 LEd 2d 674		9
Teague v. Zook, 806 F.3d 1076, 1086 (4th Cir 2015)		14
Quisenberry v. Taylor, 162 F.3d at 279 (4th Cir 2009)		14
Wainwright v. Skyes, 433 U.S. 72	(1977)	9, 11, 13
Francis Henderson, 425 U.S. 536, 48 LEd 2d 149, 96 S.Ct. 1706 (1976)		11, 13
Price v. Johnston, 92 LEd 1356, 334 U.S. 266		13

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 _____ to the petition and is

- ☐ reported at _____; 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 _____ to the petition and is

- ☐ reported at _____; 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 D to the petition and is

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

The opinion of the Nevada Supreme Court court appears at Appendix D to the petition and is

- ☐ reported at _____; 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 _____.

☐ 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: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ 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 6/30/2023.
A copy of that decision appears at Appendix 2.

☒ A timely petition for rehearing was thereafter denied on the following date: 9/12/2023 and a copy of the order denying rehearing appears at Appendix 2.

☐ 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	Page No.
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2	Provisions of Fifth Amendment	4,
3	Provisions of Sixth Amendment	4,
4	Provisions of Fourteenth Amendment	4, 8, 9
5	Provision of (ABA) American Bar Assoc	13
6	Provision of Title 28 U.S.C. § 2101	1, 2
7	Provision of Nevada Constitution Art. 1 § 8	7
8	Provision of Title 28 U.S.C. § 3006(a)	11,
9	Provision of Title 28 U.S.C. § 1257(a)	1, 2
10	Provisions of Strickland v. Washington	9
11	Provisions of U.S. v. Cronin	9, 14
12	Provision of Rule 33 of FRAP	5, 6, 18
13	Provision of Criminal & Civil Procedures	10
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17	Constitutional Law § 317, 514 - Fourteenth Amend.	8
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GROUND ~~Varies~~

Petitioner alleges violation of the ~~5th 14th~~ Amendment Rights with regard to Grounds Listed on Direct Appeal (Rehearing) based on these facts:

Right to Counsel issues

Right to retain private Counsel of Choice

Right to Counsel for "her Defense"

Right to Conflict-free Counsel

Right to Competent effective Assistance of Counsel with said Loyalty

Right to preserve Adversarial process

Right to preserve Constitutional Claims for review in both State & Fed. Habeas

Right to Equal Access to a fair Appellate process & to access the court

Right to File for Retrial & Evidentiary Hearing

Right to Self-Representation

Right to participate in decision making

Right to be informed of critical Decisions

Right to provide needed information to counsel to support & perfect direct appeal

Right to Supplement record with Supplemental brief with Const. Claims

Right to proper procedural inquiry & hearing for Motion to substitute counsel

Right to file a Rehearing of order or Rehearing on Affirmation of Order

Right to file a Motion to Vacate Remittitur

Right to a brief that is consistent & comply with the provisions of Anders

Right to file for a "Stay" Motion to procure representation of private counsel

Right to the Assistance of a Psychiatrist for trial due to Competency issues

Petitioner argue these grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously mentioned. Petitioner request the granting of this petition "In the Interest of Justice"

Petitioner argue due to the denial & deprivation of the various due process of law rights & guarantees listed above she is detained pursuant to a final judgement of Nevada State Court in violation of the United States Constitution.

Statement of Facts

Petitioner argue due to her trial counsel & appellate counsel's refusal & failure to file a (Rule 33) Motion at her request for a New trial, while filing the application for Certiorari, petitioner simultaneously filed for a FRAP (Rule 33) Motion for Retrial, Mistrial or dismissal and provided proof of her timely requests

Petitioner avers the Motion contains (46) Meritous Claims on various grounds that should have been addressed on direct appeal had counsel acted appropriately to protect her due process rights to a fair proper appellate process. The grounds include: Self representation violation; ⁽¹⁾ prosecutorial misconduct; ⁽²⁾ Judicial misconduct & Abuse; ⁽³⁾ transcript falsifying; ⁽⁴⁾ erroneous jury instructions; ⁽⁵⁾ jury tampering; ⁽⁶⁾ illegal dismissal of jurors; ⁽⁷⁾ withholding of critical Material evidence & witness statements; ⁽⁸⁾ withholding of critical psychiatric defense evidence; ⁽⁹⁾ deprivation of psychiatric testimony; ⁽¹⁰⁾ failure to allow critical (DU) expert testimony; ⁽¹¹⁾ failure to procure expert Toxicologist Medical examiner, Neuropsychologist; ⁽¹²⁾ failure to call Material witnesses; ⁽¹³⁾ deprivation of right to plea NGRI; ⁽¹⁴⁾ deprivation of Speedy trial rights; ⁽¹⁵⁾ deprivation of Miranda rights; ⁽¹⁶⁾ failure to file Suppression Motion; ⁽¹⁷⁾ Counsel failure to conduct adequate pretrial investigation's, interview witnesses; ⁽¹⁸⁾ Counsel's failure to contrive & present correct line of defense; ⁽¹⁹⁾ Counsel's failure to provide competent, effective assist of Counsel with said loyalty prescribed & guaranteed by the 6th & 14th Amend. ⁽²⁰⁾ Counsel failure to Maintain Conflict free Counsel and of course claims that are not listed above.

Petitioner avers her direct appeal & Certiorari record amply demonstrate petitioner made it known & clear that she totally disagreed with counsel's chosen claims to file in written complaint dated 3/25/23 & Motion to dismiss counsel on direct appeal. Petitioner therefore argue she should not be bound to Counsel's deficient defense strategy & decisions and has a compelling reason & claim to this court Reversal/Remand due to intervening circumstances of substantial or controlling effects. Price v. Johnston

Argument (Statement of Facts)

Petitioner argument is that in the state's opposition to her (Rule 33) Motion for retrial or dismissal "In the interest of Justice" due to many violations of her due process of law rights that cannot be remedied or cured with a New trial, the state argument is that the petitioner did not assert any of the claims listed in her (Rule 33) Motion on direct appeal; the state erroneously argued & held the Rule 33 Motion should be construed as a state post-conviction writ of Habeas. (3) the state argued & held the Motion was procedurally barred due to two year state time limitations & (1) days now (14) day time restriction on Rule 33 Motion for New trial or acquittal or dismissal. U.S. v. Kennedy (2002)

Petitioner argue & emphasize, the record amply reflect, she followed proper procedural court rules in every aspect as a defendant. However was repeatedly denied & deprived of her fundamental, substantive & procedural due process of law rights to present her claims fairly in the context of proper procedural filings of Motions thus violating her 5th, 14th Amend. rights as they pertain to "equal protection" to a fair appellate process.

Petitioner therefore argue she should not be bound to the decisions of her appellate counsel due to her many endeavors to access the courts to file complaints with contentions of dis agreements with Counsel's chosen meaningless claims and Motion to dismiss counsel due to her conspicuous appellate representation of conflicting interests, divided loyalty & abuse of strategic tactics to conceal her surreptitious legal representation.

Petitioner argue not only does she possess (1) newly discovered evidence, she has demonstrated & provided evidence that is not only Material to movant's defense but to movant's guilt or innocence that was either denied or withheld unlawfully during trial; the evidence is such as to render a different result probable upon trial. Petitioner argue she is invoking her rights under the Brady Doctrine & rules of evidence of the Federal Const. provisions & cases such as Robinson v. U.S. 638 F. Supp 2d 764 (2001)

Argument (Statement of Facts)

Petitioner argue, In recognizing the right to counsel on appeal, the court expressly rely on the Fourteenth Amendment Equal Protection Clause, which in this context prohibits disadvantaging indigent defendants in comparison to those who can afford to hire counsel themselves, but also on its Due Process Clause and its incorporation of the Sixth Amendment's Standards. See *Anders v. Calif.*, 386 US 738, 744, 18 LEd 443, 89 S.Ct. 1396 (1967) *Griffin v. Illinois*, 357 US 12, 17, 100 LEd 891, 76 S.Ct. 585, 55 AFR 2d 593, 77 S.Ct. 550 (1957) *Johnson v. Zerbst*, 304 US 458, 462-463, 82 LEd 1461, 58 S.Ct. 1014, 146 AFR 357 (1930). See also *cf. Bearden v. Georgia*, 416 US 660, 76 LEd 2d 321, 103 S.Ct. 3064 (1983) [463 US 755, 757]. See *Price v. Johnston*, 92 LEd 1356, 339 U.S. 266

The court hold a state may not incarcerate a person, whether she is indigent or not, if he or she has not had (or waived) the assistance of counsel at all stages of the criminal process at which her substantial rights may be affected. *Argersinger v. Hamlin*, 409 US 25, 32 LEd 2d 530, 92 S.Ct. 2006 (1972) *Mempa vs. Pflay* 389 US 128, 134, 19 LEd 2d 336, 88 S.Ct. 254 (1967).

Under the U.S. Constitutional Amend. V, "No person shall be deprived of Life, Liberty or property without "due process" of law". See also Nevada Constitution, Art. 1 § 8 which thus reaffirms the protection guarantees of the 5th & 14th Amendments of the federal Constitution.

Petitioner argue & must emphasize the Nevada higher Courts erroneous decisions & erroneous denial of her Motion to substitute Counsel, ignorance of her complaints, Motion to Stay to allow petitioner to retain private counsel or file for Certiorari review before the Order of Affirmation, denial of Right to Counsel, unlawful twofiling of motions, denial to access the courts, deprival of Request for remand for retrial or evidentiary hearing imposed "unreasonable constraints on petitioner endeavors to establish a full developed record that her conviction is illegal, Thus forcing her to participate in a Direct Appeal process that the very structure was UnConstitutional

Argument 3 (Statement of Facts)

Petitioner argument is that regardless of the court, all judges & justices must apply the law fairly, neutrally & accordingly to the Constitutional protections provided by the Const. Laws of the Federal Constitution. With that being said petitioner list the following Constitutional laws to support her claim for relief & remand of her case to the district court for the accordance of her due process of law rights pursuant to proper procedural Constitutional laws. Petitioner base her arguments for Remand on the Constitution of Louisiana: Constitutional Law § 317, 514 - Fourteenth Amendment - due process - equal protection

Under the Fourteenth Amendment, "due process" emphasizes fairness between the state and the individual dealing with the state, regardless of how other individuals in the same situation may be treated. "Equal protection," on the other hand, emphasizes disparity in treatment by a state between classes of individuals whose situations are arguably indistinguishable.

Appeal § 936 - Necessity of developing facts in court below

Constitutional Law § 509, 850 - Fourteenth Amendment - Criminal cases - appeal rights

Under the Fourteenth Amendment, a state cannot arbitrarily cut off criminal appeal rights for indigents while leaving open avenues of appeal for more affluent persons.

Constitutional Law § 509 - Equal Protection - Appeal in Criminal Case

The equal protection clause of the Fourteenth Amendment requires that a state's criminal appellate system be free of unreasoned distinctions, and that indigents have an adequate opportunity to present their claims fairly within the adversary system; the state cannot adopt procedures which leaves an indigent entirely cutoff from any appeal at all by virtue of his or her indigency or extend to such indigent merely a meaningless ritual while others in better economic circumstances have a meaningful appeal - the question being one of degrees, not of absolutes.

Argument (Statement of facts)

The Fourteenth Amendment's Due Process clause guarantees a criminal defendant effective assistance of counsel as defined in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2058, 80 L.Ed.3d 774 during his or her first appeal as of right. See also *Smith v. Robbins*, 528 U.S. 259, 285, 120 S.Ct. 746, 145 L.Ed.2d 754 (2000); See also *Evitts v. Luecy*, 469 U.S. 387, 394, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). See *Ree*, 536 U.S. at 483. See *Davis v. Krummer*, 167 F.3d 494, 496-98.

The Court held "Any state procedural device which would prevent or deprive Shinn from submitting evidence to prove the deprivation of right to counsel, right to a fair state appellate process, the right to access the courts, right to protect & preserve her Constitutional claims and prevent her from making a record in the inferior court is in itself contrary to the 'due process' clause of the 14th Amendment. See *Wainwright v. S. Kea*, 433 U.S. 72, 53 L.Ed.2d 594, 97 S.Ct. 2497 (1977) in further support of Motion & relief. See *Pine v. Johnston*

"Any ruling whether by the trial judge or the Nevada higher courts to deprive Shinn of her right to a fair appellate process and to deprive Shinn of her right to protect her Constitutional rights through the aid of an effective counsel is contrary to the 'due process' clause of the 14th Amendment of the United States because the effect of such ruling is to deprive Shinn of the benefit embodied within the 14th Amendment. See *Strickland vs. Washington*.

"The Fourteenth Amendment is paramount to any state rule of procedure whether the same is embodied in statute, or by judicial opinion, for the law to be otherwise would render the Fourteenth Amendment valueless in so far as protecting liberty is concerned." See *Reese v. GA*, 350 U.S. 85, *Griffin v. Illinois*, 351 U.S. 12, U.S. v. *Crowie*, 406 U.S. 648, 659, *Davis v. Krummer* 167 F.3d 494, 496-98 (9th Cir.) U.S. v. *Gillis*, *Brackhart v. Jones* (1946), *Davis v. Alaska*, *Brown v. Craven*, *Forester v. Cal.*; all cases as well that support petitioner's Motion & Claim for relief of her conviction & confinement which is clearly a miscarriage of justice.

Argument (Statement of facts)

Petitioner argue the very structure of her appellate process in itself was unconstitutional. Petitioner argue it was not only in violation of her Constitutional due process of law rights but as well in violation of the procedures of Criminal & Civil Law established by the Federal Constitution, thus rendering a Miscarriage of justice.

Petitioner argue according to federal law the procedure is as follows as established in *U.S. v. Jackson*, 487 F.2d 1197, 159 U.S. App D.C. 326, *Price v. Johnston*:

Criminal Law & Procedure > Trials > Defendants Rights > Right to Counsel > Effective Assist.

Criminal Law & Procedure > Post Conviction Proceedings > Motion for New Trial

Civil Procedure > Appeals > Records on Appeal

Criminal Law > Procedure > Appeals > Records on Appeals

When a claim of ineffective assistance is contemplated, it should first be presented to the district court in a motion for retrial. In such proceedings, evidence that de hors the record "may be submitted by affidavit" as petitioner did in this instance case. When necessary the district judge may order a hearing or otherwise allow counsel to respond. If the trial court is willing to grant the motion, the appellate court will remand. If the Motion is denied, the appeal therefrom will be consolidated with the appeal from the Conviction & sentence. The record of any hearing held on the motion and any documents submitted below will become part of the record on appeal. Petitioner argue due to the denial & deprivation of her right to file for an evidentiary hearing or retrial, she was deprived of her Constitutional right of equal access to the appellate process, 465 F.2d at 433 in *Vind et al. v. The 14th Amend.*

Petitioner argue she has a compelling claim under *U.S. v. Gillis*, 723 F.2d 549 (9th Cir 1985). Petitioner argue due to her interpretation & understanding of the decision of *U.S. v. Gillis*, she provided appellate counsel with (3) two separate supplemental briefs/Affidavits in a timely manner to supplement her request for a new trial; Petitioner argue counsel's refusal & failure to file for a request for a New Trial or evidentiary hearing deprived Shirron of her due process to show how specific errors of her trial counsel, prosecution misconduct

Argument (Statement of facts)

and the Abuse of judicial discretion undermined the reliability of the finding of guilt.

Petitioner argue the role of Counsel should above all function as the instrument and defender of the client's autonomy & dignity. [463 US 748] not to impair the absolute rights of a defendant to defend as counsel conspicuously did in Shirron's case at bar. Petitioner emphasize & argue Counsel's performance was not in the range of competence demanded of attorneys in criminal cases and due to counsel's constitutionally deficient performance, counsel failed to assure petitioner an adequate opportunity to present her claims fairly in the context of the state's appellate process [463 US 748]. See also 28 U.S.C. § 3306(a) which demands effective assistance of Counsel. The Constitutional requirement of substantial equality and fair process can only be attained where counsel acts in the role of an advocate in behalf of her client as opposed to that of Amicus Curiae or with conflicted interest & divided loyalty.

"An appellate counsel's unwillingness to present particular arguments of appellant's repeated request function not only to abridge defendant's right to counsel on appeal, but it also limits the defendant's Constitutional right of equal access to the appellate process." 665 F.2d at 433. *Ander v. Calif*, 386 U.S. 738 (1967) (463 US 754). Petitioner argue she was deprived of her right to Counsel for her defense on appeal.

The Court hold counsel's failure to raise on appeal now frivolous Constitutional claims upon which her client insists must constitute "Cause and Prejudice" for any resulting procedural default under state law. See *Wainwright v. Sykes*, 433 US 72, 53 LEd 2d 594, 475, Ct. 2497 (1977) 463 US 750.

Petitioner argument is that the "Cause" and "prejudice" exception to the Francis Rule will afford an adequate guarantee that the "contemporaneous objection" rule of the state of Nevada will not prevent a Certiorari court or Federal Habeas Corpus court from adjudicating for the first time the federal Const. claims of a defendant who, in the absence of such adjudication, will be the victim of a miscarriage of Justice. Petitioner argue she has a compelling claim for relief under Francis, *Idelman* 501 US at 750.

Argument (Statement of Facts)

Petitioner argue the Court has repeatedly held when a claim of ineffective assistance of counsel is contemplated, it should & "must" be first presented to the district court in a Motion for retrial as a means to aid the petitioner in perfecting the direct appeal and to preserve Constitutional claims for Review in both State & Federal Habeas proceedings if necessary as in U.S. v. DeCoster, 487 F.2d 1197, 154 U.S. App. D.C. 326

Petitioner argue she has a compelling claim for relief under U.S. v. DeCoster. In U.S. v. DeCoster on Appeal, defendant claimed that he was denied his Constitutional guaranteed right to effective assistance of counsel. The court remanded the case for a Supplemental hearing on counsel's preparation and investigation. The court also granted leave to defendant's appellate counsel to file a motion for a new trial which was the proper first step in a claim for ineffective trial assistance. Also a Remand was necessary because it was unclear whether an informed tactical judgment or a lack of preparation was at the root cause of counsel's inability to identify any alibi witnesses at the outset of trial. If defendant shows a substantial violation of any of the effective assistance requirements, he or she was denied effective representation as in petitioner's case at bar. In addition, petitioner argue she provided her appellate counsel with emails from her family to counsel requesting that he file for a new trial for various violations on her Constitutional rights under FRAP Rule 33. Petitioner argue the requests were made on 3/31/2022, 4/9/2022, 4/27/2022 and in open court on 5/19/2022 to the trial judge. Petitioner however declare all requests were intentionally ignored & denied thus violating her due process of law rights of the 5th, 6th & 14th Amendments. Petitioner argue she is entitled to remand pursuant to U.S. v. Fuentes-Lorenzo (5th Cir.)

Petitioner argue she as well has a compelling claim for relief under U.S. v. Thompson, 731 F.3d 711, 712-713 (D.C. Cir. 2013). It is the law of this circuit that a case be remanded to the district court on any claim of ineffective assistance first raised on direct appeal that cannot be readily resolved on the record before the Court. Petitioner argue the Ninth Circuit courts hold this view as well. See U.S. v. Turner, 490 F. Supp. 583 (9th Cir.)

Argument (Statement of Facts)

Petitioner argue the court of Appeals majority held that since Anders bars counsel from abandoning a nonfrivolous appeal, it also bars counsel from abandoning a nonfrivolous issue on appeal.

The court of Appeals held that, "having demonstrated that appointed counsel failed to argue colorable claims at appellant's requests need not demonstrate a likelihood of success on the merits of these claims." Id at 434 [463 US 757]. See also Price v. Johnston for relief of conviction

Under the ABA Standards for Criminal Justice 21.2.3 Comment, p. 21-42 (2nd ed 1980) that as an ethical matter, an attorney should argue on appeal all nonfrivolous claims upon which her client insists. Whether or not one agrees with the defendant's view of legal strategy, the lawyer after giving his or her client her best opinion as to the course most likely to succeed, should acquiesce in the client's choice of which nonfrivolous claims to pursue. Certainly Anders v. Calif. and Farett v. Calif. indicate that the attorney's usurpation of certain fundamental decisions can violate the Constitution [463 US 757]. Price vs. Johnston, 339 US 266

The court held that an attorney by refusing & failing to carry out her client's wishes, cannot forever fore close review of nonfrivolous constitutional claims. Wainwright v. Skyes, Francis, Coleman, 501 US at 750

Petitioner argue in support of her claim for relief & remand "For such overbearing conduct by counsel, there is a remedy," citing Brookhart v. Janis, 334 U.S. 1, 16 L Ed 2d 314, 86 S. Ct. 1245, 7 Ohio Misc. 77, 36 Ohio Ops 2d 141 (1966) and Fay v. Noia, 372 U.S. 391, 439, 9 L Ed, 837, 83 S. Ct. 2064, 24 Ohio, Ops 2d 12 (1963).

The court held that right to counsel for a defendant's defense is an essential fundamental component of our criminal justice system. The core purpose of having counsel is for the protection of the accused fundamental, substantive and procedural rights to a fair & impartial legal process & to preserve the adversary process. They are the means through which the others rights of the person they are representing are secured. Jones v. Barnes

Argument (Statement of facts)

Petitioner argue in support of her claim she List *Harris v. Nelson*, 394 U.S. 286, 300; "Where it clearly states in pertinent part that: 'Where specific allegations before the court shows reason to believe that the petitioner may if the facts are fully developed be able to demonstrate that her confinement is illegal, is therefore entitled to relief, it is the duty of the courts to provide the necessary facilities and procedures for an adequate inquiry.' Obviously in exercising this power, the court may utilize familiar procedures appropriate, whether they are found in civil or criminal rules or elsewhere in the usage and principles of law." See *Teague v. Zook*, 806 F.3d 803 (9th Cir. 2015); quoting *Quisenberry v. Taylor*, 162 F.3d at 279 (9th Cir. 2004).

In addition and in further support of petitioner's claim for relief, she List *Borin v. Calderon*, 59 F.3d 815, 837 (9th Cir. 1995) "Where the court held to determine whether counsel's errors prejudiced the outcome of the trial, the court must compare the evidence that was actually presented to the jury with that which could have been presented had counsel acted appropriately." Therefore petitioner argue she has a compelling claim Under *Borin v. Calderon*.

Petitioner argues in addition to *Strickland* she has a compelling claim for relief under *W.S. v. Cronin*, 466 U.S. 648, 659 (1984). "Where the court held that the appellant must be able to provide needed information to his or her lawyer and to participate in the making of decisions on her own behalf. Petitioner argue due to her appellate counsel's conspicuous divided loyalty, conflicting interests deficient performance & Constitutional errors, petitioner was deprived of her "due process" of law rights & guarantees of the 5th, 6th & 14th Amendments to show how specific errors of her trial counsel undermined the reliability of the finding of guilt and impacted the confidence of both the adjudication phase & jury verdict. Further deprived petitioner of her "due process" to prove how prosecutorial misconduct & Abuse of discretion undermined her trial & verdict as well

Conclusional Arguments (Reasons for Granting Rehearing)

Petitioner argue she suffered immense prejudice due to counsel's deficient performance, conflicting interests, divided loyalty & irreconcilable differences on direct appeal. Petitioner argue she was denied & deprived of her 6th Amend. Right to Counsel for her defense and received ineffective assistance of counsel in every aspect of her appellate representation. In fact petitioner argue she has a compelling claim for relief of her conviction under U.S. v. Ash, 413 U.S. 300, 309. Where the Court held "if no actual 'Assistance' for the accused defense is provided, the Const. tutonal guarantee has been violated."

In addition, petitioner argue due to counsel's failure to comply with the requirements of Anders v. California, 386 U.S. 738 (1967) counsel's deficiencies rendered petitioner's procedure fundamentally flawed under current circuit precedence. Therefore counsel ineffectively assisted Shirron as a matter of law. See Smith, 528 U.S. at 206, Roe, 528 U.S. at 483, Davis v. Kramer (Officer).

Petitioner argue this court's intervention, remand & reversal is critically imperative because without this court's protection of petitioner's due process rights of 5th, 6th & 14th Amendments, petitioner will be left with no vehicle in habeas proceedings. Petitioner will be forced to proceed in Pro Se against the state in habeas proceedings who will have the benefit of the appellate counsel's meaningless brief that contains the omission of many known "Winner" Const. Claims, no arguments, no supplemental brief, no request for retrial, evidentiary hearing to supplement the habeas proceeding with bona fide credible evidence to support petitioner's claim for relief.

Dated this May 31st, 2024

Respectfully Submitted

Shirron Dayles-Landess

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF _____

Clark

I am the ☐ Plaintiff/Petitioner ☒ Defendant/Respondent _____

Shirren Gayles-Zanders for Case No: S.C. #23-7052/23-6892.

On this 9th day of July, 20 24, I mailed a copy of the

Following document(s):

1. Copy of Fed-Ex Shipment Receipt dated 6/7/2024
2. Proof of Service to Nevada Atty. General
3. Exhibit (1) Emails to substantiate timely Reg. for New Trial
4. Rehearing for Writ of Certiorari
5. _____

By United States First Class Mail, to the following addresses:

- | | |
|--|---|
| 1. <u>U.S. Supreme Court</u>
<u>ATTN: Angela Jimenez/Clark</u>
<u># 1 First ST. NE</u>
<u>Washington D.C. 20543</u> | 2. <u>Office of Nevada Attorney Gen.</u>
<u>ATTN: Aaron Ford</u>
<u>100 N. Carson St.</u>
<u>Carson City, Nevada 89701</u> |
|--|---|

3. _____

Dated this 9th day of July, 20 24.

Respectfully submitted,

Shirren Gayles-Zanders
Signature

Shirren Gayles-Zanders
Printed Name

1 This document does not contain the personal information of any person as
2 defined by NRS 603A.40.

3
4 DECLARATION UNDER PENALTY OF PERJURY

5 I, the undersigned, understand that a false statement or answer to any
6 question in this declaration will subject me to penalties of perjury.

7 I declare, under the penalty of perjury under the laws of
8 the United States of America, that the above and/or foregoing information is
9 accurate, correct and true to the best of my knowledge, executed within the
10 terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C.
11 1621.

12 Dated this 9th day of July, 20 24

13 Shirron Gayles-Zanders
14 Signature

15 1258355
16 Nevada Department of Corrections ID #

17
18
19
20
21
22
23
24
25
26 ¹ NRS 171.102

27 ² NRS 208.165

28 ³ 28 U.S.C.

\$1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally



Shipment Receipt

Address Information

Ship to:

United States Supreme Court

Gayles-Zanders, S. #1258355

Clerk Of The Court/ Scott

Harris

#1 First ST NE

WASHINGTON, DC

20530

US

7252166190

Ship from:

FLORENCE MCCLURE

WOMENS CORRECTIONA

NDOC

4370 SMILEY RD

LAS VEGAS, NV

89115

US

7252166164

Shipment Information:

Tracking no.: 776753932316

Ship date: 06/07/2024

Estimated shipping charges: 5.62 USD

Package Information

Pricing option: FedEx Standard Rate

Service type: FedEx Ground

Package type: Your Packaging

Number of packages: 1

Total weight: 1 LBS

Declared Value: 0.00 USD

Special Services:

Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: FMWCC-907

Your reference: BS#2204750

P.O. no.:

Invoice no.:

Department no.:

Delivered on 6/20/24 at 2:33 P.M.

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for Items of extraordinary value is \$1000, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.

No. S.C. #23-7052/23-6842

IN THE
SUPREME COURT OF THE UNITED STATES

Shirron Gayles-Zanders — PETITIONER
(Your Name)

VS.

State of Nevada — RESPONDENT(S)

PROOF OF SERVICE

I, Shirron Gayles-Zanders, do swear or declare that on this date, July 9th, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. (Rehearing)

The names and addresses of those served are as follows:

Office of Attorney General Aaron Ford 100 North Carson St. Carson City, NV 89701

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 9th, 2024

Shirron Gayles-Zanders
(Signature)

INDEX OF EXHIBITS

Exhibit Number 1 Number of Pages 10

Exhibit Description Emails from (family) Caron Brown Requesting for New Trial

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

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Exhibit Description _____

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

Exhibit Number _____ Number of Pages _____

Exhibit Description _____

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: March 1, 2022 at 8:53:29 PM EST
To: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>
Subject: Re: Shirron Meetings

Okay Thanks Tim Feel Better!

CarenBrown Sent from my iPhone

On Mar 1, 2022, at 7:28 PM, Timothy R. Treffinger, Esq. <attorneytreffinger@gmail.com> wrote:

My plan would be to have you testify via video, if we need you to. That is going to be an evolving discussion depending on how the case is going.

One other update, I did meet with Shirron today. I also just tested positive for COVID. I am going to see if they can start the trial later in the week, as I do not want it to get reset again. I don't have a lot of symptoms aside from a nasty headache and a low grade fever, but I will keep you informed. Thankfully I did not meet with her in person (just over video) so I did not expose her.

On Tue, Mar 1, 2022 at 1:59 PM Caren Brown <carenbrown@me.com> wrote:

Good Afternoon Tim,
I Now Reside In Stone Mountain, GA, So I Need To Know I'm I Going To Testify? And Roughly When So I Can Get My Airline Ticket!

CarenBrown Sent from my iPhone

On Mar 1, 2022, at 3:05 PM, Timothy R. Treffinger, Esq.
<attorneytreffinger@gmail.com> wrote:

Giving you a quick update, I am going to be meeting with Shirron on Video today, briefly, to go over a couple of things.

Telia is still in the process of typing out her questions for Shirron's testimony (per her request to have it in writing so she could go over it). She will be in as soon as that is completed.

I will be back in for sure on Saturday, with Telia, to do the joint meeting. There will be several other joint meetings during the week next week on breaks/evenings/etc.

I will also be back in there solo between now and Monday to go over some of the audio she has requested to go over. Even though we likely won't be able to use them in trial (she is insistent on hearing them again).

I have to delegate time to that, that won't go towards actual prep time as we memorize and prep arguments and such.

I'll be going over this with her as well this afternoon, but I wanted to make sure you have a written copy in case of any misunderstanding as to when I or Telia will be in.

I still have you on our witness list, based on the State's schedule it appears that we will start our case on Friday morning so most likely we would need you to testify following Shirron's testimony. I would assume Friday afternoon or Monday.

Any questions or concerns, please reach out.

-Tim

--

Timothy R. Treffinger, Esq.

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: April 2, 2022 at 5:42:58 PM EDT
To: vavspeakout@yahoo.com
Subject: Fwd: Urgent Visit

CarenBrown Sent from my iPhone

Begin forwarded message:

From: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>
Date: March 16, 2022 at 12:34:48 PM EDT
To: Caren Brown <carenbrown@me.com>
Subject: Re: Urgent Visit

Good morning,

It can't be today, I have a heavy court day. I am already scheduled to see her on Friday to go over the MAVs, first thing in the morning.

On Wed, Mar 16, 2022 at 5:46 AM Caren Brown
<carenbrown@me.com> wrote:

Good Morning Tim,
Shirron Needs To See You Today, She Says It's Urgent.
I Don't Know What It's About!
Thanking You In Advance!

CarenBrown Sent from my iPhone

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: April 2, 2022 at 5:47:44 PM EDT
To: Gwendolyn Odom <vavspeakout@yahoo.com>
Subject: Fwd: Shirron

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: March 28, 2022 at 9:10:18 PM EDT
To: Tim/Shirron <attorneytreffinger@gmail.com>
Subject: Shirron

OMG Tim,
I Was Told By Several People That You Did Nothing For My Cousin And Friend. They Said You Served Her Up On A Platter And That You Was Working For The DA. I Can't Believe That You Wouldn't Allow No Witness Or Expert Witnesses To Help Her. Someone From Our Family Said You Are From The Bottom Of The Barrel And It's So True, You Didn't Even Do A Good Cross Examination. The Toxicology Report, The Police Officer That Lied, But The Interview Shirron Didn't Say The Things In The Report. And You Didn't Even Object To Anything. And Kerry's Daughter You Still Did Nothing. How Are You Going To Be Able To Sleep! I Guess Just Fine. May God Have Mercy On Your Soul.

CarenBrown Sent from my iPhone

On Sat, Apr 9, 2022 at 2:21 PM Caren Brown <carenbrown@me.com> wrote:

Good Afternoon Tim,
Shirron and the family would like you an appeal and a request for a retrial. Can you please advise?
Thanking You In Advance For Your Cooperation.

CarenBrown Sent from my iPhone

Timothy R. Treffinger, Esq.
Nevada Bar No.: 12877
Law Office of Timothy R. Treffinger
2350 S. Jones Blvd, D2
Las Vegas, NV 89146
702-333-5594 (office)

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: April 9, 2022 at 5:45:46 PM EDT
To: Lgayles@yahoo.com, vavspeakout@yahoo.com
Subject: Fwd: Shirron

CarenBrown Sent from my iPhone

Begin forwarded message:

From: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>
Date: April 9, 2022 at 5:30:06 PM EDT
To: Caren Brown <carenbrown@me.com>
Subject: Re: Shirron

Good morning,

The family has been texting my assistant as well. The notice of appeal has been prepared, we are waiting for the final documentation to be filed with the court, at which point we can file our notice. It will be filed timely, I can promise you that.

I do not currently have grounds to file for a new trial, if she wants to go that route I assume she will claim "ineffective assistance of counsel" and to do that she would need the public defender appointed or to have other counsel appear on her behalf. If she wants to go that route immediately (as opposed to waiting to do an appeal first) let me know and I will do what I can to streamline that.

-Tim

Good Afternoon Tim,
What does Shirron need to do to have new counsel appointed to file for ineffective counsel? Does she have to wait until her sentencing to do so?

CarenBrown Sent from my iPhone

On Apr 28, 2022, at 7:14 AM, Caren Brown <carenbrown@me.com> wrote:

CarenBrown Sent from my iPhone

Begin forwarded message:

From: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>

Date: April 27, 2022 at 6:31:12 PM EDT

To: Caren Brown <carenbrown@me.com>

Subject: Re: Shirron 3rd Request

I have answered this question previously, at least once, we have filed the notice of appeal. It has been docketed by the Nevada Supreme Court. I do not have grounds for a rehearing, unless she is claiming ineffective assistance of counsel, and as I stated previously I cannot file that motion. She would need appointed or other counsel for that type of motion.

I don't mean to be snippy, but we are getting multiple questions (repeated generally) from multiple people, and I certainly do not want my office being blamed for wires being crossed.

On Wed, Apr 27, 2022, 3:13 PM Caren Brown <carenbrown@me.com> wrote:

Good Evening Tim,

Can You Advise On The Request For A Rehearing?

CarenBrown Sent from my iPhone

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: May 3, 2022 at 10:16:35 PM EDT
To: Leland Gayles <l.gayles@yahoo.com>, Gwendolyn Odom
<vavspeakout@yahoo.com>
Subject: Fwd: Shirron 3rd Request

CarenBrown Sent from my iPhone

Begin forwarded message:

From: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>
Date: May 3, 2022 at 5:02:16 PM EDT
To: Caren Brown <carenbrown@me.com>
Subject: Re: Shirron 3rd Request

I don't know if they will let me off before sentencing, it would be part of her appeal most likely and they will appoint new counsel as part of that process. If she hires someone in the meantime they can substitute in at any time.

I just got her PSI so I will be in early next week to get her a copy of that and go over it .



Virus-free. www.avast.com

On Tue, May 3, 2022 at 1:55 PM Caren Brown <carenbrown@me.com> wrote:

CarenBrown Sent from my iPhone

Begin forwarded message:

From: Caren Brown <carenbrown@me.com>
Date: May 19, 2022 at 6:46:13 PM EDT
To: Gwendolyn Odom <vavspeakout@yahoo.com>, Leland Gayles sr
<l.gayles@yahoo.com>
Subject: Fwd: Shirron

CarenBrown Sent from my iPhone

Begin forwarded message:

From: "Timothy R. Treffinger, Esq." <attorneytreffinger@gmail.com>
Date: May 16, 2022 at 12:28:01 PM EDT
To: Caren Brown <carenbrown@me.com>, Telia Williams
<telia@telialaw.com>, Telialaw <daviddasilva@telialaw.com>
Subject: Re: Shirron

Good morning,

I tried to prepare Shirron for sentencing this morning, rather than allowing me to do that, she decided to engage in a laundry list of complaints she has against me. Apparently, she does not believe that I have answered the question/s regarding the motion for a new trial/ineffective assistance of counsel multiple times, even though I have and the family is well aware that I have. And then wanted to go into why a piece of evidence a "report" as she calls it, which is not a report and was not admissible, was not allowed into evidence.

It is clear that she has no interest in allowing me to prepare her for the sentencing hearing, and she wants to move forward with her ineffective

claims.

So here is where we are at, the Notice of Appeal and Case Appeal Statement have both been filed. Those are stayed pending a judgment of conviction. (which will issue after the sentencing hearing) Because she will not allow me to prepare her for the sentencing hearing, all I can do at this point is file a motion to withdraw and see if the court will agree to appoint new counsel for sentencing. That will be filed today.

This will be the last update from this office regarding this case, the only further information that I will pass along is who the appointed counsel is for sentencing (if allowed) and for the appeal so that all inquiries may be addressed to that counsel.

If Shirron is unwilling to have a rational conversation with me, there is nothing more I can do.

Regards,

Tim Treffinger

On Sat, May 14, 2022 at 2:45 PM Caren Brown <carenbrown@me.com> wrote:

Good Afternoon Tim,
You said you were going to see Shirron because you have the PSI and you were going to go over it with. We the family would like to know when will this happen and did they move her sentencing to the 19 Please advise?

CarenBrown Sent from my iPhone

--

Timothy R. Treffinger, Esq.
Nevada Bar No.: 12877
Law Office of Timothy R. Treffinger
2350 S. Jones Blvd, D2
Las Vegas, NV 89146
702-333-5594 (office)

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

June 27, 2024

Shirron Gayles-Zanders
#1258355
4370 Smiley Road
Las Vegas, NV 89115

RE: Petition for Rehearing
23-7052/ 23-6846

Dear Ms. Gayles-Zanders:

The petition for rehearing in the above-entitled case was postmarked June 6, 2024 and received June 24, 2024 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

It is unclear what Supreme Court case number this petition for rehearing pertains to. Please specify the case number the petition for rehearing pertains to at the top of the petition.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
Scott S. Harris, Clerk
By:

Angela Jimenez
(202) 479-3392

Enclosures

Shirron Gayles-Zanders

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In The United States Supreme Court

In the matter of:

State of Nevada

Plaintiff/Petitioner

v. Shirron Gayles-Zanders

Defendant/Respondent

Case No: 23-7052/23-6846

Dept No.: _____

☐ Hearing Requested

☐ Hearing Not Requested

AFFIDAVIT

STATE OF NEVADA)

COUNTY OF _____)

1. I am the ☐ Plaintiff/Petitioner ☒ Defendant/Respondent in the above entitled action. I have personal knowledge of the facts contained in the above-entitled case and am competent to testify to these facts.
2. My personal knowledge or personal observations of the situation is/are as follows:

Dear Ms. Jimenez/U.S. Sup. Court, Clerk,

The petition for a Rehearing was postmarked June 6, 2024 and given to the institution for mailing on June 6th 2024 as well. However according to the attached FED-EX Shipment record # 776753932316 was entered in the system for mailing on June 7th 2024. Yet when my family went to FED-EX website they ascertained it was not given to FED-EX for shipment until June 20th 2024. Please see attached FED-EX Shipment record.

As you know from the many complaints that I have made to MR. Scott Harris that the State of Nevada has launched an invidious discrimination against me and has done everything in their power to impede the successful of my

1 direct appeal including incorporating the prison officials to disrupt & sabotage
2 my appellate process by withholding or impeding an expeditious mailing process
3 to the various legal agencies.

4 I received your correspondence on July 3rd. I immediately responded to
5 comply with (Rule 44). I declare & certify this petition for rehearing is presented in
6 good faith and not for delay whatsoever. To avoid delays I always submit my
7 petitions to all agencies by Fed-Ex to ensure a timely verifiable delivery. I am
8 requesting the granting of this petition because the grounds are limited to interdenary circum-
9 stances of substantial or controlling effect or to other substantial grounds not mentioned.

10 This document does not contain the personal information of any person as
11 defined by NRS 603A.040.

12 Dated this 3rd day of July, 20 24.

13 Respectfully submitted,

14 Shirron Gayles-Zanders
15 Signature

16 Shirron Gayles-Zanders
17 Printed Name

18 DECLARATION UNDER PENALTY OF PERJURY

19 I, the undersigned, understand that a false statement or answer to any question in this declaration will
20 subject me to penalties of perjury.

21 I declare, under the penalty of perjury under the laws of the United States of America,
22 that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed
23 within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

24 Dated this 3rd day of July, 20 24

25 Shirron Gayles-Zanders
26 Signature

27 1258355
28 Nevada Department of Corrections ID #

29 ¹ NRS 171.102

30 ² NRS 208.165

31 ³ 28 U.S.C.

32 §1746. Unsworn declarations under penalty of perjury

33 18 U.S.C.

34 § 1621. Perjury generally