

No. \_\_\_\_\_

---

OCTOBER TERM, 2021

IN THE SUPREME COURT OF THE UNITED STATES

---

James Montell Chappell, Petitioner,

v.

William Reubart, Warden;  
Aaron Ford, Attorney General, State of Nevada,  
Respondents.

---

On Petition for Writ of Certiorari to the  
Supreme Court of the State of Nevada

---

**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

---

**CAPITAL CASE**

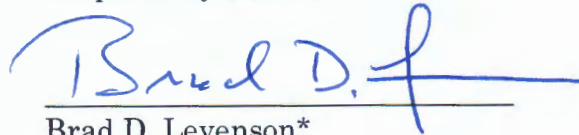
RENE L. VALLADARES  
Federal Public of Nevada  
Brad D. Levenson\*  
*\*Counsel of Record*  
Assistant Federal Public Defender  
411 E. Bonneville, Ste. 250  
Las Vegas, Nevada 89101  
(702) 388-6577  
(702) 388-5819 (Fax)

---

Pursuant to Supreme Court Rule 39.1, Petitioner James Chappell requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. On January 5, 2017, undersigned counsel's office was appointed to represent Chappell by the state court in the instant state habeas proceeding, Case No. C11341. *See* Ex. 1 at 4.

Dated this 18th day of August, 2022.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Brad D. Levenson", with a horizontal line extending from the end of the signature.

Brad D. Levenson\*

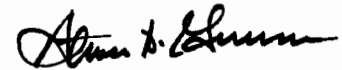
*\*Counsel of Record*

Assistant Federal Public Defender

# EXHIBIT 1

EXHIBIT 1

# EXHIBIT 1



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

JAMES MONTELL CHAPPELL,

Defendant.

CASE NO. C131341

DEPT. V

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE  
WEDNESDAY, JANUARY 04, 2017

**RECORDER'S TRANSCRIPT OF HEARING RE:  
PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS  
(POST CONVICTION)**

APPEARANCES:

For the State:

STEVEN S. OWENS, ESQ.,  
Chief Deputy District Attorney  
ALEX VAIL, ESQ.,  
Deputized Law Clerk

For the Defendant:

BRAD LEVENSON, ESQ.,  
SANDI CIEL, ESQ.,  
Assistant Federal Public Defenders

Also Present:

CHRISTOPHER ORAM, ESQ.,  
Attorney at Law

RECORDED BY: LARA CORCORAN, SENIOR COURT RECORDER

1 WEDNESDAY, JANUARY 04, 2017

2 \* \* \* \* \*

3 P R O C E E D I N G S

4  
5 THE COURT: Top of three is Case No. C131341, State of Nevada  
6 versus James Chappell. Good morning.

7 MR. VAIL: Good morning, your Honor. Alex Vail for the State,  
8 Bar No. 14291.

9 MR. LEVENSON: Brad Levenson and Sandi Ciel from the Office of  
10 the Federal Public Defender on behalf of Mr. Chappell who is not here in court  
11 today.

12 THE COURT: All right. So this is -- are you not opposing this?

13 MR. VAIL: No, your Honor, we would ask that a briefing schedule be  
14 set.

15 THE COURT: Okay. Yes, there is 377 pages on the writ. Looked --  
16 I looked and there is no page limitation. I don't know why. Everything else has a  
17 page limitation. Six thousand pages of exhibits so, yeah, I'm probably not going  
18 to read those every single page of the 6000 pages. Fortunately, you have pin  
19 cites so that's good. How much time do you need?

20 MR. VAIL: We would ask for 90 days, your Honor.

21 THE COURT: All right. Ninety days for the response. And how  
22 much do you want for a reply?

23 MR. LEVENSON: Ninety for the reply. At the same time we'll be  
24 filing a motion for discovery and a motion for evidentiary hearing, at the same  
25 time.

1 THE COURT: All right. So -- yeah -- obviously unless I grant the writ  
2 petition that's what opens discovery. So --

3 MR. LEVENSON: But we would still --

4 THE COURT: Right.

5 MR. LEVENSON: -- be requesting discovery and a hearing.

6 THE COURT: Okay. Well as I say, though, unless you -- the petition  
7 gets granted --

8 MR. LEVENSON: Yes, your Honor.

9 THE COURT: -- then, you know, the rule says or the statute says  
10 you can't do discovery but you'll -- are you going to make that -- I mean,  
11 sometimes I have an evidentiary hearing and not necessarily open up discovery.  
12 It depends, and since I didn't start on this since there was no response yet -- my  
13 clerk's been working on it for --

14 MR. LEVENSON: What we would --

15 THE COURT: -- a month.

16 MR. LEVENSON: What we would do is flag for your Honor what we  
17 thought we needed discovery for. So it would just --

18 THE COURT: All right.

19 MR. LEVENSON: -- give you some more information. Obviously --

20 THE COURT: So you're going to do that as a separate motion,  
21 though?

22 MR. LEVENSON: We'll do all three of those at the same time.

23 THE COURT: Okay. All right. Very good. So let's see -- and dates.

24 THE CLERK: April 5<sup>th</sup> for the reply and July 5<sup>th</sup> for the response.

25 And then set it for hearing on a Monday?

1 THE COURT: Yeah, but not -- not right off because then we have --  
2 THE CLERK: Oh, okay. So like give it a --  
3 THE COURT: It's like a novel.  
4 THE CLERK: Like July 30<sup>th</sup>? Would that work? Or you want to  
5 make it August 6<sup>th</sup> and then you're out of criminal stacks?  
6 THE COURT: Yeah, that's good.  
7 THE CLERK: Okay. And the hearing would be August 6<sup>th</sup> at 9:00.  
8 MR. LEVENSON: Your Honor, one more thing. Christopher Oram  
9 was the last post-conviction counsel on this case but we'd be asking for  
10 appointment at no cost to the Court, but we would be asking for an oral  
11 appointment.  
12 THE COURT: Okay. And I can't remember, did Mr. Oram withdraw  
13 or -- oh, there you are. Hi.  
14 MR. ORAM: Yes, once -- I believe once it went to the Federal  
15 system then I was no longer on the case, but if not, could I formally withdraw  
16 today?  
17 THE COURT: Sure. Let's do that in case there's some question of  
18 that. All right. And you'll be appointed. Thank you very much.  
19 MR. LEVENSON: And could we, because it's a capital case, order a  
20 transcript for -- from today?  
21 THE COURT: From today?  
22 THE RECORDER: Automatically done.  
23 THE COURT: Yeah. All right. Fortunately, it will be short. Thank  
24 you.  
25 MR. LEVENSON: Thank you.

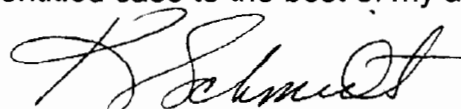
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. CIEL: Thank you.

(Whereupon, the proceedings concluded.)

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Kiara Schmidt, Court Recorder/Transcriber