Johnny E. McMahon #1022584
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419
In Proper Person

IN THE EIGHTH JUDICIAL DISTRICT COURT
IN AND FOR THE STATE OF NEVADA

JOHNNY E. MCMAHON,
Petitioner,
vs.
STATE OF NEVADA, et al.
Respondents.

CASE NO: A-25-918548-W
DEPT. NO: XII

WRIT OF PROHIBITION AND HEARING REQUESTED

COMES NOW, Petitioner, Johnny E. McMahon, pro se, moves this Honorable Court to GRANT the above captioned case as pled, based upon all records and exhibits on file with the Clerk of the Court.

STATEMENT OF CASE/ FACTS

1. A Motion is pending in Dept. 3, Judge, Monica Trujillo, to recuse sua sponte for cause, as the Clerk of the Court, Steven Grierson, working in concert with Clark County District Attorney's Office, Steven Wolfson, to engage in collusion and corruption to judge shop and place cases strategically in departments favorable to State Respondents, engaging in obstruction of justice, conducting exparte one-sided hearings, rendering pro se prisoner petitioners as voiceless and unable to make a record for appellate review,

1. (Con't): by design, as the State Respondents have been lying profusely, for 18 years, in both open court and in opposition briefs, that they are in possession of a valid copy of an arrest warrant of 2005 for McMahon, this overt fraud upon the court is further supported by the prima facie evidence on file, and is belied by the record of the Clerk of the Court, which goes to the gravamen of the case pursuant to NRS 171.178(3) as a probable cause Gernstein Hearing was never conducted within the mandated 48 hour time frame on record with witness testimony, based upon the unwarranted arrest on Dec. 12, 2005, and in furtherance at the 72 hour Initial Appearance on Dec. 15, 2005, the State prosecutor failed to present a proper charging instrument to hold the petitioner to any crime as the Justice Court, Magistrate, Karen Bennett-Haron, exceeded the courts authority in Granting the State's motion in limine, to pass the cause, the court released the petitioner on his own recognizance, as opposed to the controlling authority underpinning NRS 173.035 and NRS 173.045 to dismiss the cause without prejudice, allowing State prosecutors to timely and legally refile the case under the enacted statute entitled Curative/Corrective Statutory application by [F]irst securing an arrest warrant, by presenting to the court of lawful jurisdiction a Declaration of Warrant/Summons, and should probable cause be found the court will file the original copy with the Clerk of the Court, and present to the State prosecutor a copy of the arrest warrant to effectuate a lawful arrest, and present the person, with defense counsel, back to the court of jurisdiction, accompanied with a proper charging instrument, allowing the defendant to plead, waive, or invoke a fast and speedy trial, and the

1. (Con't): court to set bail, or take the case to a Grand Jury for Indictment. The very reason that Judge, Monica Trujillo, allowed DDA, Jacob Villani, to author the courts Order, Denying the prose Petitioner's Writ of Habeas Corpus, by invoking inapplicable AEDPA provisions of procedural default, as opposed to certifying the question as to subject matter jurisdiction, rendering instant case as a void judgment, ab initio, is because Dept. # 3 was put in place to engage in judicial activism to protect the Clark County District Attorney's Office, and in furtherance, is exactly why, Judge, Monica Trujillo, on behalf of the State Attorney General's Office, representing the Clark County District Attorney's Office, in opposition brief filed by petitioner, Ordered to Seal/Redact the record, to further hide the truth and cover up the fact that an arrest warrant was not a part of Clerk's record. Notwithstanding the fact that retained trial attorney, Paul Wommer, failed to file opposition motions for the lack of a probable cause Gernstein Hearing within 48 hours, (error and omission # 1) and Failed to Motion Justice Court to dismiss the cause without prejudice, as opposed to Ordering petitioner's O.R. release (error and Omission # 2). (See Ex's # 90-95).

2. Between the Dec. 15, 2005 Initial Appearance and the Amended filing of the Information, on April 6, 2006, the errors and omissions continued to surmount. Attorney, PW, filed two Requests For Discovery, with the Clark County District Attorney's office. One on Dec. 15, 2005 and second on Jan. 11, 2006, resulting in no disclosure of a valid arrest warrant, or probable cause Gernstein Hearing being conducted on record. Attorney, PW, again (error and omission # 3) failed to Motion

2. (Con't) Justice Court to Dismiss the Case With Prejudice based upon a void judgment. On Dec. 15, 2005 at 1:34 P.M. the State faxed over to justice court an Information, absent an arrest warrant or the presence, in court, of petitioner and legal counsel a violation of NRAP. (See Ex# 14).

3. At the Preliminary Hearing on March 23, 2006, the errors and omissions morphed into fraud upon the court, as the Clark County District Attorney's Office, working in concert and collusion with ex-prosecutor, attorney, PW, fully knew that without creating a ruse to claim that McMahon was in arrest warrant status from, April 2005, the case could have been held as a void judgment, as magistrate, KBH, in colloquy with DDA, Cheryl Kosewich, declared that an arrest warrant was not a part of the Clerk's file, the court went on to severly chastise the Clark County District Attorney's Office for possessing a modus operandi in failing to timely and properly refile cases. Again, attorney, PW, failed to motion the court in limine to Order, DDA, C.K., to produce a valid copy of the said arrest warrant (error and omission #4), and further failed to again motion the court in limine to dismiss the case with prejudice for a void judgment, pursuant to the controlling statutes NRS 173.035 and NRS 173.045, as well as a long line of venerable cases, laws of the case on all 4's with the instant case. The Nevada Supreme Court exhonerated the defendants and declared the cases as a void judgment. As such, justice court went outside of the scope of its official capacity and color of law, to bind the case over to 8th Judicial District Court for trial, as the court of origin is the Justice Court, where the errors occurred and subject matter jurisdiction over McMahon's person, and the case, was never legally established

3. (Con't): whereby McMahon's physical restraint was unlawful, which continues today, 18 years later, and still applies under collateral attack of Title 3 Jurisdiction, under the United States Supreme Courts controlling standards, for all lower and inferior courts to certify the question as to subject matter jurisdiction by physically inspecting the requisite evidence (which doesn't exist to begin with) the case constitutes as a void judgment, and it doesn't matter who's driving the vehicle, or if Mr McMahon is factually and actually innocent, or guilty as Al Capone, the Boston Strangler, or Charles Manson, no reviewing court has the unfettered right, to pick and choose, to determine who is dispensed due process and equal protection, as the laws, statutes, rules, policies and procedures apply equally to everyone, as such this manifest of injustice should have been discarted in the judicial dumpster 18 years ago, as opposed to this pro se prisoner petitioner filing numerous extraordinary writs and motions to at least five 8th Judicial District Court Judges, the Court of Appeals and Nevada Supreme Court to simply Order the Clerk to produce an original copy of the arrest warrant of 2005 for McMahon. Notwithstanding the fact that the Nevada Supreme Courts fatally flawed and erroneous opinion, claiming that they addressed the Jurisdictional Defect, which is Virtually IMPOSSIBLE, without first physically inspecting the requisite evidence of a non-existant arrest warrant, which additionally supports the fact that pro se prisoner petitioners are treated with utter disdain, and the degree of protectionism of the Clark County District Attorney's Office, to secure a conviction, is systemic in all State courts. Wherefore, as a matter of law and the justice owed to the case and Mr McMahon, this farce and sham case ends here and now. (See Ex # 17).

4. The Clark County District Attorneys office realizing that the arrest warrant ruse would not survive constitutional scrutiny in a collateral attack, in July, 2007 presented to petitioner a plea agreement to secure a conviction, in a down graded count of statutory sexual seduction, a probational count based upon petitioners record. However again attorney, PW, rendered faulty legal advice (error and omission #5) informing petitioner that if he accepted the plea deal that he would waive his right to appeal, and that he and private investigator, Jim Thomas, who petitioner retained for $5,000, would secure the available exculpatory evidence to impeach both witness accusers, of the computer IT data and Sprint cell phone record, whereby EH impeached her TT claiming that she did not call petitioner subsequent to filing the complaint, as EH did call and apologized for lying blaming her mentally challenged mother, LRK, for retaliating against petitioner for refusing to continue financially subsidizing her "cat bed" venture, and promised to call Det. A.C. to recant. E.H. intentionally evaded Det. A.C. for over a year to give a voluntary statement, whereby she claimed on Oct. 2004 she had a menstural period discharge on petitioner's bedding used at trial as States Ex's# 31-33. In furtherance the State knew full well that E.H's allegations did not constitute the crime of sexual assault, pursuant to the essential elements under NRS 200.366 being: violence, force, threat, coercion and intimidation, as E.H. freely came and went, with her own key, babysitting 4 year old, R.M, over four months from June - Oct., 2004 and made no such complaints to anyone known to E.H. Moreover, as testified, E.H. claimed that prior to becoming a babysitter for R.M. she was sexually active with her African-American boyfriend Louis. (See Ex's# 27-28)(3-5).

5. Had petitioner Known that attorney, PW, was in on the Fix, in concert with the Clark County District Attorney's Office to secure a conviction, petitioner would have accepted the plea deal and invoked an Alford plea, to protect his right to appeal, been released on probation, fired attorney, PW, and retained a competent law Firm to collaterally attack the jurisdictional defect and this manufactured sex case would have been dismissed with prejudice as a void judgment 18 years ago.

6. The errors and omissions of attorney, PW, and vindictive prosecutorial misconduct of the fraudulent concealment of the exculpatory DNA evidence, to hoodwink the court and intentionally mislead the jury by State prosecutors using a forensic DNA expert, R.H., from the Utah Crime lab to claim that the commingled DNA evidence, on States Ex's #31-33, was the by produce of the petitioner tearing E.H's hymenal blood sac during the initial sex act in June, 2004, and the DNA evidence was 1-38,000 against the defendant, whereby, inferring petitioner, R.M., and E.H. slept on the bloody bedding for four months. However, attorney, PW's, errors and omissions continued at the trial level, in failing to file a single subpoena for petitioner's three alibi witnesses (error and omission # 6), attorney, PW, additionally failed to secure a DNA expert to rebutt States experts salacious legal fiction (error and omission # 7) to have the DNA forensically examined pursuant to NRS 176.0918(c)(3) for genetic marker analysis to determine the true nature of the commingled blood DNA on States Ex's # 31-33, as being either a hymenal blood sac tear, or as confessed by E.H.

6. (Con't): she had a menstural period discharge on the bedding, when the petitioner and R.M. were in New York in Oct. 2004. Attorney, P.W., was well aware of Det. A.C. illegally obtaining petitioner's DNA buccal swab, in TT claiming that the ruse was used by detectives to sometimes get a suspect to confess, whereby attorney, PW, again failed to motion the court to suppress the illegally obtained DNA buccal swab under 4th Amendment violations (error and omission #8), as the DNA evidence went to the gravamen of the case to intentionally mislead lay jurors, and had attorney, PW, presented the Voluntary Statement Interview of E.H. on page 19, claiming that she had a menstural period discharge on the bedding in Oct. 2004, and had attorney, PW, presented the States plea agreement of petitioner and motioned the court to strike the 3 counts of sexual assault (error and omission #9), the court would have struck the sexual assault counts as the State prosecutors failed to prove their case beyond a reasonable doubt, yet again, the DNA ruse was designed to inflame the passions of the jury and mislead the lay jurors of faulty DNA. Attorney, PW, additionally failed to motion the court to declare a mistrial, as the testimony of witness accuser, EH, had nothing to do with the gross misdemeanor TT of witness accuser, SK, as neither case was cross-admissible, moreover, DR, the adult complainant for minor, S.K., was impeached at trial, by both States witness, R.F., DR's best friend, and petitioner, claiming that petitioner did not loan DR $1,000 to pursue internet love interest in NY, dragging SK along, yet again both R.F. and petitioner testified that petitioner loaned D.R. $1,000 to pursue internet love interest, failed to repay the debt, and asked for another loan to

6. (Con't): pursue another internet love interest in Reno. The State prosecutors additionally called SAINT nurse practioneer, P.S., a part time State employee testifying favorably 64 times, using junk science analysis, examing E.H. months after the Fact, claiming E.H's hymenal tear was consistent with a sexual assault, designed to Further presudice the defendant, moreover, P.S.'s diagnosis was not corroborated by a medical physician. Attorney, PW, Failed to challenge P.S. junk science analysis (error and omission# 10-11). When Det. A.C. testified as to the DNA ruse, he additionally claimed he drafted an arrest warrant, then on re-direct examination of DDA, G.O. recanted to claim that when the defendant was arrested in 2005 that an arrest warrant was not in place. Both attorney, PW, and the State DDA's promised the jury that various witnesses would be called to support, the State promised that, LRK, would be called to support EH's testimony, yet when EH testified, asserting that she was a liar and had no problem lying, claiming some 16 times that she was absent minded to evade relevant questions, E.H. claimed that her mother was "nuts, crazy, stupid and that she hated her guts," which altered the States case and was supported by DDA, C.K's, assertions in a bail hearing before, Kevin Williams, that LRK was mentally challenged. Attorney, PW, additionally promised the jury that the three alibi witnesses would be called to impeach both witness accusers, who both claimed that they didn't report the sex crimes immediately as they didn't want to get into trouble. (error and omission # 12). Judge, David Barker, an ex-prosecutor with attorney, PW, Failed to protect petitioner's right to a fair trial when attorney, PW, effectively abandoned the defense and failed to put the States case to a meaningful adversarial testing.

6. (Con't): The court, in voir dire of prospective jurors, set the tone for the case, in admonishing a prospective juror, stating: "As the defendant sits here today, he's guilty until proven guilty." This faux pas was not corrected by attorney, PW, nor was the DDA, P.S., questioning of noticeably pregnant E.H. to further bias and prejudice defendant stating, "And we see that you're pregnant, does that have anything to do with the defendant"? Knowing full well that the defendant had not seen or made contact with E.H. in over 4 years. Again, attorney, PW, failed to object to the bias comments. Attorney, P.W., additionally failed to motion the court to dismiss the case based upon misjoinder, as S.K, who was only a play friend of RM, and petitioner knew for over 6 years, claimed at some unknown time in 2004, at R.F.'s apartment in Henderson, the petitioner lewdly touched her, then the allegations and case mysteriously was transferred to Clark County, now claiming that the lewd misdemeanor touching event occurred in Las Vegas at Dr. P.C.'s house, again at some unknown time to misjoin the cases to infer prior bad act evidence. The cumulative effect of attorney, PW's, IAC errors and omissions, coupled with the vindictive prosecutorial misconduct of the fraudulent concealment of the faulty DNA evidence, resulting in the petitioner being denied a procedurally full and fair trial, as had the jury been apprised of the plea agreement and voluntary statement of EH's menstural period discharge on bedding, the sexual assault counts would have been dismissed, along with the illegally obtained DNA buccal swab and the "he said, she said", credibility contest, and testimonial battle would have changed the outcome of the verdict and the petitioner would have been acquitted. Notwithstanding the fact that when Det. A.C. conducted a voluntary

6. (Con't): statement interview of infant pre-schooler, RM, using suggestive coercive tactics, to get RM to claim that she witnessed EH and petitioner kiss and have sex, yet a clear reading of the 26 page document reflects the fantasy and fiction by RM, who also claimed that she had a boyfriend, that her dad gave her two golf balls for Christmas, and that TV's can fart, fantasy and fiction consistent with infant children, as at trial the State called RM to testify, absent the court canvassing the minor witness under 10 years of age, pursuant to statutory law and law of the case of the Nevada Supreme Court, instead judge, Barker, failed to dismiss the jury and question 8 year old, R.M. to determine credibility and just impressions. When RM testified she couldn't even remember the voluntary statement interview and further couldn't even read the document, instead she broke down crying. The entire trial was a complete farce and sham designed to secure a conviction using fraud upon the court in violation of NRAP Rule 60(b)(6)(d)(3). (See Ex's 3, 5, 7-8).

7. Prior to the case being assigned to Judge, David Barker, by design, of the Clerk of Court manipulating the department assignment to favor the State Respondents, by placing ex-prosecutor jurist on the case, the case was assigned to Honorable Judge, Elizabeth Halverson, who in a status check severly chastised attorney, PW, for not sanitizing the case of taint, by challenging the jurisdictional defect, the DNA buccal swab illegally obtained by Det. A.C. and striking the sexual assault counts. Attorney, PW and DDA, G.O., then requested a side bar with the court and subsequently went into chambers as defendant remained at the defense table. It would be several years later until petitioner

7. (Con't): was informed of what transpired in chambers with attorney, P.W., DDA, G.O., and Judge Halverson.

8. At sentencing the petitioner in allocution with the court fired/legally discharged attorney, PW, as counsel, as DDA, G.O., continued to puke out the salacious legal fiction of the faulty DNA evidence being 1-38,000 against the defendant, as attorney, PW, failed to strike the sexual assault counts, as the jurors passions were so inflamed they found defendant guilty of both sexual assault and statutory sexual seduction.

9. Upon the petitioner attempting to contact attorney, PW, to return his case file, attorney, PW, in his filing forms to the Nevada Supreme Court engaged in fraud upon the court, claiming that he was retained at the appellate level, in stark contrast to his Motion for Appointment of Counsel in the District Court, claiming that he was appointed at the lower level and the court should appoint him back onto the case to prosecute defendant's first direct appeal of right, again in stark contrast to his filing forms to the Nevada Supreme Court, claiming that he was retained as counsel at the lower level. Not only did attorney, PW, constructively hijack petitioner's first direct appeal of right, to cover up his 6th Amendment IAC errors and omissions and to profit, petitioner filed pro se motions for court to withdraw attorney, PW, for conflict of interest; (2) Appoint a conflict-free counsel to prosecute the direct appeal; or (3) allow petitioner to proceed pro se in a Faretta setting. The district court stayed the pro se motion and appointed attorney, PW, back onto the case creating

9. (Con't): a clear conflict of interest as pursuant to the Nevada Bar Assn. Model Rules of Professional Conduct Rule 3.8, 8.4, when a retained / legally discharged attorney is relieved of his duty by a client/defendant, the attorney must return all legal documents and case file, back to the client/defendant, enabling him to retain a new counsel. The errors continued as attorney, PW, failed to challenge the jurisdictional defect, failed to persuade the Court to reverse the case based upon the vindictive prosecutorial misconduct of faulty DNA evidence. In attorney, PW's, unauthorized first direct appeal, filed a year later in July, 2009, he made three narrow arguments, none of which he preserved by objection at the lower level, claiming retroactive enjoinder as a ground, which presumes that at one point the enjoinder was proper, then later became improper, which is fatally flawed as enjoinder was never proper. The errors continued as the State violated the NRAP by failing to serve a copy of their answer brief on attorney, PW, or defendant, by design, to bar attorney, PW, from rebutting their salacious legal fiction in claiming a \$20 bill theory to overcome misjoinder, the State in their Certificate of Service sent their copy of the answering brief to the law firm of Christalli & Saggese, who had absolutely nothing to do with the case. Not only does this render the appeal as null and void, which equally attaches to the Nevada Supreme Courts Affirmance and Remittitur, it additionally renders all subsequent appeals as a constitutional nullity to declare AEDPA provisions as inoperable. Petitioner additionally filed extraordinary pro se petition to the Nevada Supreme Court to arrest the case and take jurisdiction based upon the conflict of interest, the Court instead returned the petition back to

9. (Con't): the petitioner unfiled under Rule 46(b) as a fugitive document, as attorney, PW, was the attorney of record, again, this Catch 22 scenerio also runs afoul of the Nevada Supreme Courts Order ADKT #411, holding that all appellate attorneys shall correspond and communicate with client/defendants to perfect and correct the direct appeal favorable to the client/defendant, who is suffering the onus of the consequences and the JOC. Again, the fact that pro se prisoner petitioners are treated as second class citizens, as the Court went on to further inform the petitioner to contact attorney, PW, to resolve the matter, which was the very reason to file the pro se extraordinary writ to begin with, as attorney, PW, refused to correspond or communicate with the petitioner. The petitioner additionally filed complaints on attorney, PW, with the Nevada Bar Assn. and a complaint on district court, Judge, David Barker, with the Commission on Judicial Discipline for conflict of interest, all to no avail. (See Exs # 25, 46-47, 51-53, 57, 60-61, and 65).

10. The district court judge, Barker, refused to recuse sua sponte for cause, and the petitioner additionally filed pro se motions and correspondence with the Chief Judge to Order Judge, Barker to recuse for conflict of interest. Instead to protect attorney, PW, the district court Granted a pro se motion for a Strickland Hearing to determine attorney, PW's 6th Amendment IAC violations and appointed counsel, Rochelle Nguyen, (now a Nevada State Senator). DDA's G.O. and C.B. went to Det. A.C.'s office to retrieve the unfiled Declaration of Warrant/Summons and faxed a copy of the bogus document over to counsel, Nguyen. The court from the bench issued a subpoena for attorney, PW, to appear with case file.

10, (Con't): At the Dec. 16, 2011 hearing DDA's, G.O. and C.B. conducted a hallway session with attorney, PW, to load his lips to their version of the case, absent the courts approval or the presence of defense counsel, Nguyen, again by design, as when attorney, PW, testified he claimed that he had lost petitioner's file, and his memory was faulty as to his errors and omissions, failing to even remember petitioner retaining him for $25,000, or private investigator, JT, for $5,000. Yet he boasted on his working knowledge of the law and his 30 year legal résumé. When asked about the existence of an arrest warrant he was unaware of any such document, yet when DDA, C.B., paraded the unfiled Declaration of Warrant/Summons claiming that the bogus document was a valid arrest warrant, and the court failed to certify the question by physically inspecting any document. The State prosecutors then stepped up their campaign of fraud upon the court by introducing a cut and paste TCR document replete with white out redactions, in stark contrast to the original TCR issued to petitioner on Dec. 12, 2005 at CCDC. The States uttered TCR document possesses the forged signature of Magistrate, KBH, fraudulently affixed to the document, as the signature runs underneath the pre-printed form line and boxes, which defies forensic science. The bogus forged TCR document was introduced by the State to overcome the existence of a probable cause Gernstein Hearing on paper, which runs afoul of the mandates of the United States Supreme Court. Reflective of the courts Finding of Facts, conclusion of law Order of April 1, 2012, the court held that a valid arrest warrant was in place in 2005 for McMahon's arrest, that a probable cause Gernstein Hearing was conducted on paper, and equally egregious that attorney, PW's, representation at the lower

10. (Con't): level was both tactical and strategic, and met the two prong test of Strickland standards and therefore the petitioners IAC, under 6th Amendment, was not violated. Which equally attached to the court creating a conflict of interest to allow attorney, PW, to constructively hijack the first direct appeal of right. (See Ex's # 11, 61-63).

11. Subsequent to the farce and sham Strickland Hearing and exposing the Clark County District Attorneys office continuing lies and campaign of fraud upon the court, the petitioner filed a pro se motion and correspondence to Magistrate, KBH, to authenticate and confirm her signature as to the States TCR document as being true and accurate, and for the court to forward the forged document to the proper authorities for a forensic examination, and subpoena the States original copy of the bogus document, again, all to no avail. (See Ex # 74).

12. The petitioner fully realizing that the courts, attorney, PW, and State Respondents have no intentions of playing fair by the rule of law, as such the gloves came off and petitioner decided to fight fire with fire and contacted a friend, Kelly Capp, an IRS investigator in, Ogden, Utah. After informing him of Attorney, PW's, abandonment of my defense he agreed to have attorney, PW, investigated and audited, which led to attorney, PW's, indictment, prosecution and criminal conviction in the United States District Court before the Honorable Judge, Gloria Navarro, who sentenced attorney, PW, to 41 months in Federal prison. (See Ex # 68).

13. Attorney, Rochelle Nguyen, filed a motion to the Nevada Supreme Court, under Mann v. State, supra, for the Court to Order a new evidentiary hearing, based upon attorney, PW's, criminal trial testimony, which was in stark contrast to his testimony in the Farce and sham Strickland Hearing. The Nevada Supreme Court denied the motion holding that Judge Barker's Order was law of the case, as attorney, PW, was protected all the way to the United States Supreme Court in a Writ of Certiorari.

14. While being wrongfully convicted and falsely imprisoned at NNCC, a new arriving inmate, Mr. Halverson, sought out petitioner with some very important information. Mr Halveson, was convicted of assaulting his wife, Judge, Elizabeth Halverson, informing petitioner of the events that transpired in chambers with attorney, PW, DDA, G.O., and Judge Halverson. He claimed attorney, PW, informed his wife that he and the Clark County District Attorney's office were working with the FBI, who believed that Mr. McMahon was a serial rapist, who they couldn't convict with forensic evidence. Attorney, PW, then requested the court assist them in securing a conviction to get Mr McMahon off the streets. Mr. Halverson said his wife felt intimidated and threatened and immediately thereafter locked herself in chambers and called the FBI, who denied any such events. Mr Halverson said the rest is a matter of public record. Mr Halverson additionally informed the petitioner that he would be willing to testify in a court of law as to the events. At this point the petitioner had to find out from attorney, PW's, mouth why he was involved in the conspiracy to secure a conviction.

15. Reflective of attorney, PW's, criminal trial transcripts, his defense of "Diminished Capacity" in not knowing or understanding the law, was based upon a skiing accident in 1991, whereby he hit his head on a tree allegedly sustaining frontal-lobe brain damage to severly impair his sound reasoning and cognitive abilities, and was diagnosed prior to trial by expert witness neuropsychologist, DR. M, who testified that PW suffered from a series of cognitive thinking, reasoning, was quick to anger, illogical functions, etc. in not knowing or understanding legal concepts. Which was in stark contrast to what attorney, PW, told the petitioner when he was retained in a winnable case, and was in stark contrast to his testimony in the Strickland Hearing, claiming that he possessed a working knowledge of the law. Attorney, PW, also failed to notify the Nevada Bar Assn. pursuant to Rule 8.4 of his mental disability to perform legal duties, nor did he notify the Nevada Supreme Court. The only person who didn't buy PW's bullshit defense was the Honorable Judge, Gloria Navarro, who found attorney, PW, guilty on all counts of money laundering and tax evasion and sentenced attorney, PW, to 41 months in federal prison. (See Ex #68).

16. When the petitioner filed a Writ of Habeas Corpus in the U.S. District Court before Judge, Andrew P. Gordon, the court found no errors in attorney, PW's, representation at the lower level, nor in constructively hijacking the petitioners first direct appeal of right. Federal Public Defender, Jonathan Kirschbaum, focused solely on attorney, PW's, 6th Amendment IAC as a ground and refused to challenge the jurisdictional defect or the States fraud upon the court under NRAP Rule 60(b), as well as the vindictive prosecutorial misconduct to

16. (Con't): fraudulently conceal the exculpatory DNA evidence, nor Judge Barker's post-conviction judicial bias to force an unwanted attorney back onto the case, creating a clear conflict of interest, to prosecute the petitioner's first direct appeal of right. However, J.K., did secure a copy of attorney, PW's, complaint file from the Nevada Bar Assn., upon PW finally being disbarred. J.K., claimed that the file was thicker than a New York phonebook, going back decades with complaints from both retained/clients and appointed/defendants, who complained that PW refused to communicate or correspond with them to prepare a trial defense, or in post-conviction to correct and perfect the direct appeal, many other complaints from family members of PW requesting additional money for the defense, after being appointed to the case, and more troubling and egregious, complaints from females, of incarcerated loved ones, soliciting sexual favors for exchange of legal representation. Not only does this conclude that PW was simply driven by greed and avarice, he is a dispicable human being who should have been disbarred decades prior, as opposed to being protected, and further proves that PW couldn't find his ass with a guide dog, moreover if you'd hook PW, and the State Respondents, up to a polygraph machine they'd break the needle, the machine would short circuit and blowup. (See Ex # 10).

17. When PW checked into Federal prison in Butner, N.C. the petitioner made arrangements for a greeting party, a coup de grace, to find out who else was in on the fix and conspiracy to secure a conviction in a manufactured sex case, and who funded the conspiracy? While PW was pissing his pants he disclosed former DA, David Rogers,

17. (Con't): DA, Steven Wolfson, and Judge, David Barker all received $100,000 dollars from the Mandalay Group to keep Mr McMahon in prison for life in a manufactured sex case, and unable to reconstruct Flying Saucer Entertainment and professional sports complexes to control the gaming hospitality leisure business on Las Vegas Blvd by 2010 with his strategic partners and constructively shutting off the bottom line of the Mandalay Group properties denying access to the Rapid Transit System from McCarran International Airport controlling the movement of 1.5 million in-bound out-bound guests on a monthly basis, and seperating the gamblers from tourist/conventioneers, using a gaming point system, used decades later by FanDuel and Draft Kings in on-line wagering. The case was never about sex, it was about billions of dollars of generated revenue controlling Las Vegas Blvd. From Hacienda to Sahara Ave. The group then gave PW a new prison moniker, Paul "The Worm" Wommer. Stay tuned! (See Ex's # 86, 90-100).

ARGUMENT ONE

LAS VEGAS TOWNSHIP JUSTICE COURT MAGISTRATE, KAREN BENNETT-HARON, ABSENT THE POWER AND AUTHORITY TO ACT, ACCEPTED SUBJECT MATTER JURISDICTION OF THE CASE ON DECEMBER 15, 2005 VIOLATING BOTH STATE LAW NRS 173.035 AND NRS 173.045 AND McMAHON'S DUE PROCESS RIGHTS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE STATE OF NEVADA AND THE UNITED STATES CONSTITUTION.

United States Supreme Court Justice Douglas eloquently opined: "A lie can travel around the world before the truth can buckle its shoe". Which is aprapos to the instant case as the Clark County District Attorney's Office has been asserting ad nauseum for 18 years that they are in possession of a valid arrest warrant of 2005 for McMahon, which is not only belied by the records of the Clerk of Court, this ruse originating on, March 23, 2006 has slithered in and out of the 8th Judicial District Court between five judges, including the Court of Appeals and the Nevada Supreme Court.

The Court as early as 1804 in Ex parte McCardle, 7 Wall 506, 514, 19 LEd 264 (1869) has addressed Article III § 2 legal standing as to subject matter jurisdiction, holding that until legal standing has been certified by the reviewing court physically inspecting the requisite evidence from the custodian of records, Clerk of the Court, the case constitutes as a structural due process defect because the prosecution never properly vested authority over the person.

The Court in Chicago Steel and Pickling Company v. Citizens for a Better Environment, 533 U.S. 83, 118 S Ct 1003 (1998) opinion by Scalia J, joined by Rehnquist Ch. J., O'Conner, Kennedy and Thomas J.J. holding, threshold jurisdictional question had to be resolved before the Supreme Court could proceed on the merits. Justice Scalia went on to severly chastise the Ninth Circuit Court of Appeals, including the State of Nevada, opining: ("The Ninth Circuit has dominated this practice (of addressing merits prior to proving jurisdiction) which he characterized as assuming jurisdiction for the purpose of deciding merits" the "doctrine of hypothetical jurisdiction." So here we are 28 years later and the Nevada Courts are still practicing hypothetical jurisdiction, steadfastly refusing to comply with the United States supreme Courts controlling standards, and instead of certifying the question as to subject matter jurisdiction first, as opposed to using the only defense, when there is no defense, invoking inapplicable AEDPA provisions as: Time Barrment, Procedural Default, Claim Preclusion, or Second and Successive Petitions.

Mr. McMahon strongly asserts again, that Nevada Courts have taken up the practice of "hypothetical jurisdiction" to tacitly and blindly accept whatever bare naked allegations a prosecutor can puke out, absent physically inspecting the requisite evidence, which now requires this reviewing court-to first certify the question of subject matter jurisdiction- by proving the existence of a valid arrest warrant, absent that showing the case constitutes as a void judgment. As held in Rosemond v. Lambert, 469 F2d 416 ("The burden shifts to the reviewing court to prove jurisdiction... a court cannot confer jurisdiction where none existed and cannot make void the proceedings"). FRCP 12(b) e.g. City of Indianapolis v. Chase National Bank, 314 U.S. 63, 69, 62 S Ct 15, 16 (1941). Which is exactly what has happened in the instant case, as justice court went outside the scope of its official capacity, absent the power and authority to act, the court bound the case over to the district court for trial.

The State respondents, in both open court and in opposition briefs, have steadfastly maintained that they are in possession of an arrest warrant of 2005 for McMahon, yet this lie and ruse has been sanctioned by the courts failure to simply Order the State respondents to produce such document, Knowing full well, based upon the compelling and overwhelming prima facie evidence on file, that no such requisite evidence exists to begin with, which showcases the opines of Justice Douglas, as the Nevada courts continue to rubber stamp lies and fraud upon the court to engage in judicial activism to protect the Clark County District Attorney's Offices criminal enterprise. And the very reason that the collective Nevada courts are shielding the Clark County District Court is because the arrest warrant ruse goes to the gravamen of the case, and will not pass constitutional scrutiny in the federal courts, as the vehicle will not be driven by a pro se prisoner petitioner.

On December 15, 2005, subsequent to the State prosecutors failing to present a valid arrest warrant and proper charging instrument to hold McMahon to any crime and justice court Ordered petitioner's O.R. release, the State prosecutor faxes over to justice court, at 1:34 P.M., an Information, absent a valid arrest warrant and the presence in court of the defendant and legal counsel, a clear violation of the NRCP, proceeding without lawful re-initiation constitutes a structural due process defect because the prosecution never properly vested authority over Mr McMahon. Under Nevada law, once a defendant is released for lack of probable cause or valid charging instrument, the State must recommence prosecution by (1) grand jury indictment, or (2) a new complaint followed by the issuance of a warrant or summons. Again, a faxed Criminal Information, without a warrant, summons, or defendant present before the court, does not lawfully restore jurisdiction over person. See Sheriff v Lang, 103 Nev 550, 552 (1987). (Prosecution must be commenced by valid complaint, information, or indictment).

Hicks v. Sheriff, 86 Nev 67, 69 (1970). (Detention or prosecution without lawful charging instrument violates due process). Valdez-Jimenez v Eighth Judicial Dist. Court, 136 Nev. 155(2020) (Jurisdiction requires lawful commencement of criminal action).

It is noteworthy that in legislative notes, provided by defense attorney, Rochelle Nguyen, now Nevada State Senator, to the petitioner, the State Attorney General's Office beat a path to the Senate Judiciary Committee to pursue the passage of NRS 173.035 and NRS 173.045, as Curative/Corrective statutes, giving State prosecutors another bite at the apple, allowing prosecutors to pursue the timely and lawful prosecution of a criminal case when initial errors, inadvertence, or mistaken clerical errors failing in presenting a proper charging instrument at the initial appearance accompanied by a Declaration of Warrant/Summons, with the presence of the defendant and Counsel, absent the filing of a new complaint in justice court immediately forthwith, or taking the matter to a grand jury for indictment violates the spirit of the statutes.

The Nevada Supreme Court took up this very argument in Sheriff Clark County V. Levinson, 95 Nev 436. (A complaint must be Filed forthwith and the peace officer must produce the accused before a magistrate court of proper jurisdiction accompanied by a sworn criminal complaint, or by indictment, to hold the accused of a crime). As such, waiting 100 days until April 6, 2006 to File an Amended Complaint does not constitute 'forthwith' rendering subject matter jurisdiction as nugatory and a void judgment.

NRS 173.035 as enacted created the legal process for State prosecutors to properly refile the case protecting civil rights:

(a) present an affidavit of probable cause arrest warrant application to a court of jurisdiction for the consideration of the issuance of an arrest warrant; (b) Upon consideration by the reviewing court, should probable cause be found to exist, an arrest warrant shall issue and the original copy maintained by the Clerk of the Court and a copy issued to the prosecution to exercise an arrest pursuant to NRS 171.178. (In 1979 the State legislature amended NRS 171.178 and provided for a hearing if an arrested person is not brought before a magistrate within 72 hours after arrest); (c) Upon arrest of the person present the accused to the court accompanied by a proper charging instrument; or (d) take the matter to a grand jury.

The United States Supreme Court in the County of Riverside v. McLaughlin, 500 US 44, 56 (1991) changed the 72 hour mandate of hearings on unwarranted arrest to 48 hours, as held in Gemstein v. Pugh, 420 US 103, 113-14 (1975). A case on all 4's with the instant case occurred in 1994 in Parsons v. 5th Judicial Dist. Ct. ex rel County of Nye, 885 P2d 1316 (1994). The Court held that subject matter jurisdiction did not properly attach to justice court. This is not a discretionary act availing to justice court rather a statutory duty that the Nevada legislature put in place to protect the rights of the accused against arrest and prosecution.

As such, either the instant case constitutes as a case of first impression, or the petitioner is being discriminated against by the courts failing the grant due process and equal protection under petitioners guaranteed constitutional rights? As such, what applies to those laws of the case equally attaches to Mr. McMahon.

Whereas, by virtue of State courts refusing to comply with their own controlling standards and statutory authority constitutes a break in the "chain of authority" between the spirit and the legislative intent. The Nevada Courts have long held. (The constitution prescribes all legal cause and action to be based upon the Statutes of Nevada, and nothing else). Whereas AEDPA provisions and the merits do not supercede arrest warrant and proper charging instruments to be addressed first in the order of all laws, rules and stare decisis case law. As such, no court can grant the State exigency in claiming that they addressed the jurisdictional matter, when no arrest warrant exists to begin with, or give the Clark County District Attorney's Office the unfettered right to usurp the legal process and obfuscate the facts to violate the law, if that were the case what would be the need for any rule of law?

The Nevada Supreme Court went on to hold in Cranford v Smart, 92 Nev 89 (The proper way for the State to bring charges against a defendant would have been by filing a proper complaint or by an indictment in a timely manner). The Cranford Court found support in Murphy v. State, 110 Nev 794, and reversed the conviction holding the State improperly circumvented the pre-trial charging process and that NRS 173.035(2) was a device to rectify "egregious errors" and was not a mechanism for safeguarding deficiencies in evidence. As such, again, what applies to those laws of the case equally attaches to Mr. McMahon.

The State respondents campaign of lies, ruse, and fraud upon the Courts was premised on the fact that they fully knew that Det. A.C.

failed to present the Declaration of Warrant/Summons to any court, at any time, prior to, or subsequent of the unwarranted arrest on December 12, 2005. Moreover, being that the making of a return of arrest warrant is a ministerial act, to be performed after the warrant is executed and returned to the magistrate court whom a defendant is brought NRS 171.152. The States claim is belied by the record as the Clerk of the Court is devoid of any such document, and in furtherance which is exactly why Judge Barker, at the Strickland Hearing failed to physically inspect the bogus unfiled Declaration of Warrant/Summons, or the State respondents uttered TCR document with the forged affixed signature of magistrate, KBH, on the document, as Judge Barker at trial in May, 2008 heard Det. A.C. recant and impeach his prior testimony, when asked on re-direct examination of DDA, G.O.

Q: So in December of 2005 when the defendant was finally arrested, there wasn't a arrest warrant out for him at that point, is that correct?

A: Correct.

Most recently, the Nevada Supreme Court reaffirmed the two bedrock principles petitioner contends. In Spracklin v Spracklin, 504 P.3d 1097, 2023 WL 8827746 (2023). The Court succinctly stated: A judgment that is void for lack of subject matter jurisdiction may be subject to collateral attack. State v. Sustacha, 108 Nev 223, 226 n.3, 826 P2d 959, 961 n.3 (1992); See also 47 Am. Jur. 2d Judgments § 698 (2017). ("[A] collateral attack may be allowed if the judgment is void, such as where a judgment was rendered by a court without jurisdiction." (footnote omitted)). ("[A] judgment is subject to subject to collateral attack for lack of jurisdiction if the jurisdictional defect is apparent on the face of the record." Which is exactly why Judge, Monica Trujillo, in an ex parte one-sided hearing Sealed/Redacted the record to both hide the truth and protect the Clark County District Attorney's Office when DDA, Jacob Villani, authored the courts Order denying Petitioners extraordinary writ to prove subject matter jurisdiction.

Subject matter jurisdiction is the authority of the court to render judgment in a particular category of case. Leindretl v. Malik, 127 Nev. 175, 183, 251 P3d 103, 168 (2011) A lack of subject matter jurisdiction renders a court Order void. State Indus. Ins. Sys. v. Sleeper, 100 Nev. 267, 269, 679 P2d 1273-1274 (1984). A party can raise lack of subject matter jurisdiction for the first time on appeal. Swan v Swan, 106 Nev 464, 469, 796 P2d 221, 224 (1990) and the existence of subject matter jurisdiction is a question of law subject to de novo review. Ogawa v Ogawa, 125 Nev 660, 667, 221 P.3d 699, 704 (2009).

Again, why the Nevada Supreme Court chose to ignore the pro se prisoner petition of a Writ of Mandamus NRAP 27(e) Emergency within 14 days, defies common sense and logic, let alone the courts own controlling standards to physically inspect the requisite evidence to certify the question as to legal standing? As its IMPOSSIBLE to physically inspect a document that doesn't exist, so how can it be said that the Court addressed the jurisdictional matter? Mr McMahon has met the threshold standard of 47 Am. Jur. 2d Judgment § 719 whereby the existence of subject matter jurisdiction depends on a question of fact, a party must put forth sufficient evidence for this court to determine whether jurisdiction was proper. Am. Jur. 2d Judgments § 719 went on to hold. If the jurisdictional defect does not appear on the face of the judgment roll or record, the judgment is considered valid and therefore immune from collateral attack. Under this rule, the validity of a judgment when collaterally attacked must be tried by an inspection of the record alone, and no other or further evidence on the subject is admissible... [A] collateral attack of a judgment fails if the judgment contains jurisdictional recitals. Where the record is silent, it will be presumed that jurisdictional facts exist or were duly proved.

The Ninth Circuit Court of Appeals has addressed the type of fraud upon the court under FRCP Rule 60(b)(6)(d)(3) and want of subject matter jurisdiction. In E.L. Cord v. Smith, 370 F2d 418, 423 (9th Cir). ("There is firmly established in the law's the doctrine confirming the power of the court to set aside at any time any mandate that was procurred by effecting a fraud on the court"). The Court went on to hold in Cooper v. Woodford, 358 F3d 1117, 1123 (9th Cir 2004). State courts cannot ignore their statutory law and corrective statutes and expect to be granted windfall for their outrageous conduct. This principle was put in place by the United States Supreme Courts decision in Hazel-Atlas Glass Co. v. Hartford Empire Co., 372 US 238 (1944) whereby the Court put in place a "savings clause" allowing petitioners to collaterally attack their conviction and sentence in perpetuity when fraud upon the court was instituted to upset the judicial machinery which citizens rely upon to render just verdicts. The Ninth Circuit went on to hold in U.S. v. Broadwell, 959 F2d 292 (9th Cir 1992) The Court held that without proper jurisdiction a court cannot proceed at all, but can only note the jurisdictional defect and dismiss the case. See also Norton v. Matthews, 477 US 524, 531, 96 SCt 2271.

The Court in Hocker v. Boles, 346 F2d 285-86 (1965) held. ("No authority need be cited for the proposition then when a court lacks subject matter jurisdiction any judgment rendered by it is void and unenforceable. Once jurisdiction is collaterally challenged the court cannot proceed when it clearly appears to reach merits but rather should dismiss the action"). See also Melo v. U.S., 505 F2d 1026 (there is no discretion to ignore subject matter jurisdiction). The Court went on in Augustine v. United States, 704 F2d 1074, 1077 (9th Cir 1983) held ("Lack of subject matter jurisdiction cannot be waived, and the court is under a continuing duty to dismiss an action whenever it appears that the court lacks jurisdiction"). Fed. R. Civ. P. 12 (b)(3) ("If the court determines at anytime that it lacks subject matter jurisdiction, the court must dismiss the action"). ("Subject matter jurisdiction can never be forfeited or waived and federal courts have a continuing obligation to determine whether subject matter jurisdiction exists"). See Lesson v. Transamerica Disability Income Plan, 671 F3d 969, 975 n. 2 (9th Cir 2012). The Court went on in Painero v. Archon Corp. 844 F3d 832 (9th Cir 2016). ("If a court lacks subject matter jurisdiction it is obligated to dismiss the case, regardless of how long the litigation has been ongoing. If the court determines that it lacks subject matter jurisdiction, it is required to dismiss the complaint in its entirety").

In conclusion, the United States Supreme Court took up the very argument as to mere assumptions, hearsay and unfounded allegations. In re Winship, 397 US 358, 364 (1970). (The burden of proof standard consists of two prongs: (1) The burden of production; and (2) The burden of persuasion). The Court went on to hold that "evidence asserted must be based upon evidence of fact." Wherefore, this arrest warrant ruse, orchestrated by the Clark County District Attorney's Office in continuing the prosecution of the instant case, and has tainted every judicial decision, up to judge, Monica Trujillo to Seal/Redact the record, to hide the truth that an arrest warrant never existed to begin with, and to protect both the Attorney General's Office and the Clark County District Attorney's office, who manufactured this campaign of lies, ruse and fraud upon the court to hoodwink every court up the appellate road, which has been successful for 18 years. These due process and equal protection clause guarantees look good on paper, yet in real life they have no application in the 8th Judicial District Court. As held in Frady, 456 US at 163 n.17. (The fundamental good faith application of oath is to eliminate fraud and corruption that taints the integrity of the fair process).

Accordingly, until a reviewing court simply Orders the Clerk of the Court to Unseal the record and produce the Original copy with an embossed State seal, of the arrest warrant of 2005 for McMahon, this overt ruse, campaign of lies and fraud upon the court will continue unabated. As such, the question of law is: (1) How did the Las Vegas Township Justice Court lawfully obtain the power and authority to act, and acquire legal standing, to adjudicate the instant case absent the existence of a valid arrest warrant and timely refiling of a proper charging instrument; and (2) Why has the Nevada Supreme Court, in the instant case, taken such a radical departure in NRS 173.035 and NRS 173.045 as to controlling standards and laws of the case?

ARGUMENT TWO

A WRIT OF PROHIBITION IS THE CORRECT REMEDY TO USE AS AN EXTRAORDINARY WRIT WHEN THE LOWER COURTS ACT IN EXCESS OF ITS JURISDICTION.

A writ of prohibition may be issued if a lower court acts in excess of its jurisdiction. See Goicoechea v. District Court, 96 Nev. 287, 607 P2d 1140 (1980). The district courts lack jurisdiction to review the acts of other district courts. See Nev. Const. art 6 § 6 NRS 3.220. Warden v Owens, 93 Nev. 255, 563 P2d 81 (1977). A writ of Mandamus or Prohibition are appropriate remedies to arrest the proceedings of a court when there is not a plain, speedy and adequate remedy in the ordinary course of law and when the proceedings of the court are without or in excess of jurisdiction. To permit the issuance of jurisdiction over the subject matter, or parties, in the fundamental sense, but only that there be a want, or excess, of the power of the court as defined by statute, or by rules, developed and followed under the doctrine of stare decisis. Tide Water Assoc. Oil Co. v. Superior Court, 43 Cal 2d 815, 821, 279 P2d 557. See also Abelleira v District Court of S. Cal. 2d 430, 17 Cal. 2d 280, 287, et seq. Jurisdiction is a threshold determination and cannot be waived. Velez v. Crown Life Ins. Co., 599 F2d 471 (1st Cir 1979).

By virtue of the Las Vegas Township Justice Court accepting subject matter jurisdiction to hear the instant case, whereby State prosecutors failed to timely and properly refile the instant case pursuant to NRS 173.035 and NRS 173.045, to legally obtain jurisdiction over the person to pursue prosecution of the case. As such, subject matter jurisdiction exits or it does not and, before proceeding on the merits, a court should be satisfied that it does have the requisite jurisdiction [emphasis added] (quoting Messer 13, 96 P3d at 17). It is fundamental, if not axiomatic, that a court can render any decision, or Order, having in effect in any case or matter, it must have subject matter jurisdiction. Jurisdiction is essential to the exercise of judicial power. Unless the court has jurisdiction, it lacks any authority to proceed, and any decision, judgment, or other Order is, as a matter of law, utterly void and of no effect or purpose.

As held by the Wyoming Supreme Court in Edsall v. Moore, July 15, 2016. Whether jurisdiction exists may be asserted at any time, by any interested party or sua sponte by the court at the trial or the appellate level. The absence of subject matter jurisdiction in a district court cannot be waived, and the Wyoming Supreme Court can have no greater jurisdiction of the subject matter than the district court. The Court went on to hold in Granite v. Springs Retreat Ass'n. v. Manning, May 12, 2006 (... unless the court has jurisdiction, or other order is, as a matter of law, utterly void and of no effect for any purpose...").

Federal Rules of Civil Procedure 12(h)(3). While a district court may not sua sponte remand a case for procedural defects a court may sua sponte remand a case if it lacks jurisdiction." Fed. R. Civ. P. 12(b)(1) motion to dismiss tests whether a complaint alleges grounds for federal subject matter jurisdiction..." 2022 U.S. Dist. LEXIS 50445 Espinoza v. Union of Dentists Afscme Local 206, March 16, 2022. See e.g. Robinson v. United States, 586 F3d 683, 685 (9th Cir 2009).

The United States Supreme Court has weighed in on Cognizable claims in federal habeas corpus proceedings. To be sufficiently important to qualify for habeas corpus relief, a federal statutory claim must (1) attack a fundamental defect which inherently results in a "complete miscarriage of justice" or in a proceeding inconsistent with the rudimentary demands of fair procedure, or (2) present exceptional circumstances rendering the need for the remedy afforded by the writ of habeas corpus. The Court has further refined these descriptions both by applying them to permit habeas corpus relief from any failure to comply with the format requirements of [a federal statute] that occurred in the context of other aggravating circumstance and by identifying at least five exemplary "aggravating circumstances" that satisfy this test for what amount to "nontechnical" violations:

(1) Violation of an important or fundamental statutory right, for example, "effectuates a constitutional right [such as] the Sixth Amendment guarantee of a speedy trial";

(2) The existence of some particular "reason" to fear that State Judges in general may "undermine" or "be hostile to the federal law" that was violated;

(3) Violations of statutes as to which "nationally uniform interpretation" is particularly important;

(4). "willful or egregious" violations of any federal law by particular State Judges; and

(5) Prejudice to important interests of the incarcerated petitioner.

As a general rule, therefore, all properly exhausted and preserved federal constitutional claims challenging the legality of a State's or Federal Government's holding the petitioner in custody, or the terms, duration, and possibly the conditions of that custody, are cognizable in habeas corpus. Also cognizable are custodial challenges premised on the limited set of federal statutes, treaties, and federal common law rights that bear on the propriety and conditions of criminal confinement by the States and that implicate important principles of national law or important individual liberty interests.

What glaringly jumps off the page as to "aggravating circumstances" is (2) and Judge, David Barker's overt bias, at both the lower level and creating a conflict of interest by appointing his ex-prosecutor friend, attorney, PW, back on to the case to prosecute the petitioner's first direct appeal of right, after attorney, PW, was retained/legally discharged at sentencing. Then Judge Barker claims in his Order, in regard to the farce and sham Strickland Hearing, that attorney, PW's, representation at trial was both tactical and strategic. Which brings the most laughs and commentary on Justice for Johnny.com, by people in the legal profession, claiming that the degree of underlying issues and judicial bias is glaring. And as to (4) all district court judges in post-conviction who willfully ignored the United States Supreme Courts controlling standards, to first certify the question as to subject matter jurisdiction by physically inspecting the requisite evidence to determine legal standing, all knew that an arrest warrant was never in place to begin with, which is exactly why they collectively invoked AEDPA provisions, to snub their collective noses at controlling authority, to protect the Clark County District Attorney's Office. Which is exactly why a writ of prohibition is the appropriate vehicle to arrest this farce and sham manufactured sex case.

In regard to the presumption of correctness to the district courts custody decision. The United States Supreme Court in Hilton v. Braunskill, 481 US at 774-77, established an equitable test for determining whether to release a prisoner pending appellate review of a district courts decision to grant the writ and discharge the prisoner. The factors to be considered include: (1) Whether the applicant has made a strong showing of likelihood of success on the merits; (2) Whether the applicant will be irreparably injured absent a release; (3) Whether others interested in the proceedings will be substantially injured; and (4) Whether the public interest would be best served by release. See also Haggard v. Curry, 631 F3d 931, 934-35 (9th Cir 2010).

Under Cognizable Claims. If the petitioner is challenging jurisdiction in a collateral attack a fundamental defect which inherently results in a complete miscarriage of justice and Vacatur of State Conviction is warranted. See Teague v. Lane, 489 US 288, 305-06 (1989). As in the instant case Mr. McMahon may file a motion for examination by a different judge. See also Gano v. U.S., 705 F2d 1136, 1137 (9th Cir 1983). Not only is an evidentiary hearing, with the petitioner's presence, required to determine jurisdiction, it is additionally required to determine if legal counsel at pre-trial and trial was ineffective, which aptly involves, attorney, PW's, failure to investigate the case or put the States case to a meaningful adversarial testing, based upon his criminal trial defense of "diminished capacity" asserting his mental deficiencies to know or understand the law, as ineffective counsel in a critical stage of the proceedings is a mixed question of fact and law. See also U.S v. Barrett, 797 F3d 1207, 1227-28 (10th Cir 2015).

Mr McMahon has for the past 13 years, not only petitioned every reviewing court with extraordinary writs and related motions to arrest the case and take jurisdiction of the lawlessness and jurisdictional defect, including numerous Chief Judges from the Justice Court, 8th Judicial District Court, Court of Appeals and Nevada Supreme Court, to grant the justice owed to the case as a matter of law. Again, to no avail as the majority of the Correspondence was returned as ex parte communication. As such there is no access to the courts oversight by a diligent petitioner to put the Chief Judge on notice of lawlessness.

Accordingly, the writ of prohibition and hearing requested, with the presence of the petitioner in an evidentiary hearing, is warranted to put an end to this manifest of injustice which has set back the trust and integrity in Nevada's Criminal Justice System from the bottom to the top.

GROUND THREE

THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE HAS CREATED AND OPERATES A CRIMINAL ENTERPRISE TO MANIPULATE THE EIGHTH JUDICIAL DISTRICT COURT TO FORUM JUDGE SHOP IN COLLUSION WITH THE CLERK OF THE COURT ENGAGING IN OBSTRUCTION OF JUSTICE TO DENY PRO SE PRISONER PETITIONERS OF ACCESS TO THE COURTS AND THEIR GUARANTEED RIGHTS OF DUE PROCESS AND EQUAL PROTECTION CLAUSE UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO STATE CONSTITUTION.

Mr. McMahon strongly asserts that the compelling and overwhelming prima facie evidence on file with the Clerk of the Court, supports the fact that the Clark County District Attorney's Office, under DA government gangster, Steven Wolfson, inherited from DA, David Rogers, the architect of the criminal enterprise to manipulate the 8th Judicial District Court system, by working in concert, and collusion, with Clerk of Court, Steven Grierson, who strategically places cases in departments of judges, who are both ex-prosecutor jurist and courts, with underlying issues and judicial bias, who's allegiance is to the government, as opposed to the justice owed to the case.

What is equally offensive, the Clerk of the Court will return all petitions and motions that do not cite in the heading: Hearing Requested, or Hearing Not Requested. Which is not only laughable, as 8th Judicial Dist. Court judges steadfastly refuse to Order Transport of pro se prisoner petitioners, the movant party, back to appear in person, to make a record for appellate review, which conforms to conducting a procedurally full and fair hearing, in stark contrast of the courts, by design, creating ex parte one-sided hearings with only DDAs of the Clark County District Attorney's Office to participate and dictate proceedings to present arguendo favorable to the government. Not only does this egregious process create a financial hardship in remailing documents and delaying access to the courts, allowing state government to invoke inapplicable AEDPA provisions of time barrment and procedural default to bar jurisdictional review, indigenous to the instant case.

The petitioner has additionally filed complaints of this obstruction of justice to U.S. Attorney General for Nevada, Sigal Chattah, and to USDOJ Prison Czar, Alice Marie Johnson, Taking Action For Good.

To further support the petitioner's claim of obstruction of justice, a Study was conducted; See Federal Habeas Review, Challenging State Court Criminal Convictions. Bureau of Justice Statistics, USDOJ NCJ-155504, September 1995 p. 17. The Study was also cited in treatise by, Barry Scheck, of Innocence Project, placing the State of Nevada as the worst State to dispense justice to pro se prisoner petitioners, labeling the system as "The Good Ole Boy and Girl System." The treatise disclosed that over 10,000 writs of habeas corpus filed prose, in the 11 State Judicial District courts, Court of Appeals, and Nevada Supreme Court, in post-conviction, that not a single petitioner was granted relief from custody in State Courts. The Study was parroted by the UNLV Boyd Law School Law Review Journal that of the 10,000 petitioners that 5% were exhonerated and granted relief from custody in U.S. District Court based upon recantations, faulty DNA evidence, vindictive prosecutorial misconduct, coercive police tactics, Brady violations, and rarely 6th Amendment IAC claims, the Study went on to hold that wrongfully convicted prisoners spent between 14-16 years falsely imprisoned in Nevada and other states, and evidentiary hearings were not conducted in State courts, to ferret out fact from fiction, and truth from lies, and unfortunately these cases were adjudicated in less than two minutes twenty-four seconds, judges when deciding the case took less time considering their life and liberty than it takes to boil an egg.

The federal courts cited United States v. Cotton, 535 US 625, 630, 122 S. Ct 1781 (2002). ("... defects in subject matter jurisdiction require correction regardless of whether the error was raised in municipal court or District Court... "). The Court went on in Jackson v. Virginia, 443 US 307 (1997).

("Federal habeas courts act in their historic capacity - to assure that the habeas petitioner is not being held in violation of Federal constitutional rights"). As unlike State courts, the Federal courts have no dog in the fight, and simply call balls and strikes on the law and constitution. Notwithstanding the fact, the federal court will, for the sake of brevity and Federalism execute the (5) Five "W's": Who, What, When, Where and Why State courts freely chose to engage in such Draconian tactics, taking a Chapter out of the Communist Manifesto, to deny the justice owed to the case: (1) Who orchestrated the arrest warrant ruse to commit fraud upon the courts under FRCP Rule 60(b) which now triggers the "Savings Clause"? (2) What was the States reasoning for the ruse and Fraud upon the Courts? (3) When did the arrest warrant ruse and fraud upon the courts originate? (4) Where did the impetus of this arrest warrant ruse and fraud upon the courts originate?; and (5) Why did this arrest warrant ruse and fraud upon the courts originate and survive 18 years of judicial petitions, to hide the truth, as after unsealing the record, no such document exists?

Accordingly, the petitioner in his Statement of the Case/Facts, supported by prima facie evidence, exposing the States reasoning as to why this manufactured sex case conspiracy was put in play, involving the FBI, Mandalay Group, LVMPD, Clark County District Attorney's Office, 8th Judicial District Court, Judge, David Barker, and retained/legally discharged convicted Felon attorney, Paul Wommer, all in on the fix to secure a criminal conviction to keep Mr. McMahon from resurrecting Flying Saucer Entertainment, Rapid Transit System, and Underground Vegas, on Las Vegas Blvd. to control the gaming hospitality leisure business by 2010. Stay tuned!

CONCLUSION

Mr. McMahon strongly asserts based upon the prima facie evidence in support that the State Respondents intentionally lied and committed fraud upon the court asserting that a valid arrest warrant of 2005 for McMahon exists and is a part of the record with the Clerk of the Court. The "Smoking Gun" evidence is a valid original copy of the arrest warrant with the Clerk of the Court. The record must now be unsealed to prove, or disprove, the true existence of the arrest warrant document. Absent that showing for this reviewing court to order the record unsealed and produce the document this case constitutes as a void judgment and this wrongful conviction and false imprisonment, over the past 6,543 days, must be dismissed with prejudice, and Mr McMahon fully exhonerated, which is exactly what should have happened 18 years ago with a competent defense attorney and fair-minded impartial jurist as subject matter jurisdiction does not exist then, or now, as is the justice owed to the case and 75 year old Mr. McMahon.

IT IS SO PRAYED.

Dated: 3 day of March, 2026.

Respectfully submitted,

Johnny E. McMahon

Johnny E. McMahon

Pro se

VERIFICATION / AFFIRMATION NRS 239B.030

Mr McMahon declares under penalty of prejury that the following and Foregoing statements, evidence and pleading is true and accurate to the best of his ability and possesses first-hand knowledge of the truth and accuracy of the events and that no documents contain the social security number of anyone.

Dated: day of March, 2026.

Johnny E. McMahon

CERTIFICATE OF SERVICE

Mr McMahon declares that a true and correct copy of the Writ of Prohibition and Hearing Requested, was placed in the U.S. Mail postage pre-paid on day of March, 2026 to;

Clark County District Attorney's Office
Steven B. Wolfson
200 Lewis Ave
Las Vegas, NV 89101

Johnny E. McMahon
Pro se