

LESTER L. TELLIS # 24522
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

FILED	RECEIVED
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COUNSEL/PARTIES OF RECORD	
JUL 30 2010	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY:	DEPUTY

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LESTER L. TELLIS,
Petitioner

vs.

BILL DONAT, et al.,
Respondents.

Case No. 3:10-CV-00387-ECR-VPC

MOTION TO SHOW
CAUSE

COMES NOW Petitioner, LESTER L. TELLIS, pro-per and hereby files with the Court his Motion to Show Cause, as directed by this honorable Court, to do so (#3).

I. STATEMENT OF THE CASE

On June 28, 2010, this Court issued its Order (#3), granting Petitioner leave to proceed in forma pauperis within this action, and directing him to show cause in writing why the petition should not be dismissed without prejudice for lack of exhaustion within thirty (30) days.

II. STATEMENT OF FACTS

On June 25, 2010, Petitioners, Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, challenging a prison disciplinary hearing which violated his right to due process of law as guaranteed by the 14th Amendment to the U.S. Constitution, was filed. Prior to filing said petition, Petitioner sought exhaustion in the State Courts on his due process violations.

On September 5, 2008, Petitioner filed in State District Court a State Petition for Writ of Habeas Corpus, challenging the prison disciplinary actions taken against him for rule infractions allegedly occurring in January of 2008. See Exhibit # I attached.

In that Petition, Petitioner alleged that he was found guilty of MJ-19- Sexual Assault; MJ-25- Threats; and, MJ-30- Sexually Stimulating, and was sanctioned to 18 months disciplinary segregation, loss of canteen for 60 days, Loss of phone for 30 days, and "Stat referral (see Exhibit # 1-b)." SEE, Exhibit # 1, at p 5, see also, Exhibit # 2 (formerly Exhibit 1-b)

attached.

On May 19, 2009, the State District Court issued an Order Dismissing Petitioner's Petition for Writ of Habeas Corpus, based upon Petitioner allegedly having failed to provide evidence that as a result of the disciplinary hearing he suffered a loss of good time." See, (#4) at p. 18. That court then went on to note that even though Petitioner had filed various motions, he did not provide the requested information. *Id.* Which is false.

On March 23, 2009, Petitioner filed his "Opposition to Motion to Dismiss. See Exhibit #3, attached, where he stated:

Comes Now, Your Mute Lester Tellis, in Propria Personarum Requests the Honorable Courts, of the loss of Petitioner's Statutory Credits, Stat. time (See Exhibit #1-b), in the Petitioner Writ of Habeas Corpus All Writ for Petitioner.

Id. at p. 1 of Exhibit #3, attached. Exhibit #1-b of the Writ, is a form used by the NDOC designated as a "Statutory forfeiture, Restoration Referral Report." That exhibit under the bold print of "NDOC Action:" indicates

that, "Credit forfeiture: 450" was a forfeiture of 450 days, which was deducted on 3-28-08. Id.

III. ARGUMENT

As shown above, Petitioner, did present to the State Courts the "evidence" that he had been subjected to a loss of statutory credits as a result of a prison disciplinary hearing in the amount of 450 days.

The State, by refusing to acknowledge that Petitioner had presented evidence of the loss of Statutory Credits, has denied Petitioner a full and fair hearing on his Petition in State Court. See, Allen v. McCurry, 101 S.Ct. 411, 449 U.S. 90 (1980) (concept of collateral estoppel cannot apply when, the party against whom the earlier decision is asserted did not have a full, and fair opportunity to litigate that issue in the earlier case). Id. 101 S.Ct. at 415, n.5. In fact, federal courts can step in where state courts are unable or unwilling to protect federal rights. Id. Allen, 101 S.Ct., at 418, n.12.

As noted by the Ninth Circuit,

"redetermination of issues is warranted if there is reason to doubt the quality, extensiveness, or fairness of procedures followed in prior litigation." Maciel v. C.I.R., 489 F.3d 1018 (9th Cir. 2007), citing Montana v. United States, 440 U.S. 147, 164, n. 11, 99 S.Ct. 910. at p. 1023, n. 6.

Since the State Courts clearly refused to read and accept the Petitioner's Opposition to Motion to Dismiss, and accept his assertion and documentation that he had lost 450 days of Statutory Credits, as a result of the prison disciplinary guilty finding, then this Court should not be bound by those courts' decision.

CONCLUSION

Wherefore, all of the above stated reasons, Petitioner requests that this Court find he has exhausted State Court remedies in this action.

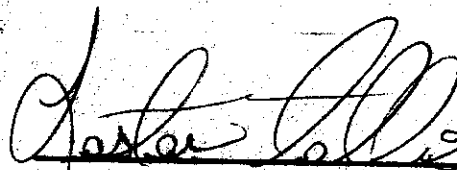
DATED THIS 7/26/2010 day of July, 2010.

Lester L. Tellis #24522
LESTER L. TELLIS

CERTIFICATE OF SERVICE

I, LESTER L. TELLIS, hereby certify pursuant to FRCP 5(b), that on this 7/24 day of July, 2010, I did mail a true and correct copy of MOTION TO STAY CAUSE, by giving it to a prison guard to deposit in the U.S. Mail, postage pre-paid, sealed in an envelope, addressed to:


CLERK OF THE COURT
U.S. DISTRICT COURT
DISTRICT OF NEVADA
400 SOUTH VIRGINIA STREET, ROOM 301
RENO, NEVADA 89501


#24522
LESTER L. TELLIS #24522
Ely State Prison
P.O. Box 1989
Ely, NEVADA 89301

RECEIVED
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FILED

2008 SEP -5 PM 2:34

WHITE PINE COUNTY CLERK
BY: 

1 LESTER TELLIS
2 NEVADA STATE PRISON
3 P.O. BOX 607 CARSON
4 CITY, NV 89702

5
6 ^{seventh}
7 IN THE FIRST JUDICIAL DISTRICT COURT
8 OF THE STATE OF NEVADA IN AND FOR THE COUNTY

9 IN THE MATTER OF APPLICATION

10
11 OF: LESTER TELLIS
12 and

CASE NO. HC080901E

13 BILL DONT WARDEN
14 RESPONDENT

DEPT NO. 1

15 NOTICE OF ORIGINAL JURISDICTION FOR
16 WRIT OF HABEAS CORPUS ALL WRIT FOR
17 PETITIONER PRESENT UNCONSTITUTIONAL
18 PRIOR RESTRAINT OF LIBERTY, NRS 34,185,
19 NRS 34,320 NRS 34,360.

20
21 TO: The Honorable Judge of the ^{seventh} First Judicial District
22 Court of the State of Nevada in and for the County of Carson, ^{White Pine}

23
24 Comes Now, Petitioner, Lester Tellis, in Proper Person, and moves
25 This Honorable Court Pursuant to NRS 34,185, NRS 34,320 and
26 NRS 34,360, inclusive, to issue a Writ of habeas Corpus Ad su-
27 bjiciendum is guaranteed by the United States Constitution Arti-
28 cle I, § 9, and the Nevada Constitution.

1 Petitioner further requests that this Court liberally construe
2 his Petition based upon the fact that Petitioner has a very limited
3 knowledge of the law, Petitioner has a very limited knowledge of
4 The English language, based upon the fact that he is a "layman,"
5 litigating in proper person, without the benefit of assistance of
6 Counsel, and he is unskilled and untrained in the preparation of
7 legal documents and/or judicial procedures, See, Haines v. Kerner,
8 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed. 2d 652 (1972), and Brown
9 v. Vasquez, 952 F.2d 1164, 1166 (1991, 9th Cir.), Petitioner further
10 requests the Court to read his Petition liberally and interpret it to
11 raise the strongest and most viable arguments and inferences
12 from the facts in favor of the Petitioner, See also, McPherson v. Coomb,
13 174 F.3d 279 (9th Cir. 1999). In support of the instant Petition,
14 Petitioner alleges and shows:

1. That Petitioner is submitting the above-entitled action in proper person, and pursuant to the vested authority of the U.S. Constitution Article I, § 9; Nevada Constitution Article 6, §§ 4 and, further jurisdiction is hereby conferred and invoked pursuant to the Nevada Revised Statutes, Sections 34,185, 34,320 and 34,360, inclusive, as well as Nevada Rules of Appellate Procedure, Rules 21 and 22.
- 2.

That the place where Petitioner is restrained from his liberty is the Nevada State Prison - Elko State Prison, state of Nevada; that the person by whom he is restrained by virtue of his constructive custody is Bill Donat, Warden.

III

1 3. That the restraint of said above-Captioned Petitioner
2 is Unlawful in this: the Present Unconstitutional Prior Restraint
3 of Liberty without fundamental Substantive Due Process and
4 Equal Protection of the Law is Unlawful, through the Violation of
5 the Constitutional and Statutory mandate for a Denied Petiti-
6 oner of Counsel, and witnesses, and Disciplinary ReHearing in
7 ~~30~~³⁵ days From the date appeal was up held, and the Unlawful
8 Imprisonment of the Petitioner There after, is Protected by the first,
9 Fourth, Sixth, Fourteenth Amendment, Faith and Public Acts,
10 Unpublished Record, Article 4, Section, 1, United States Constitution,
11

12 4. That no Other Petition has here to fore been filed on the
13 Present issue on the behalf of Petitioner.

14
15 5. That this Petition is based upon the grounds herein-above
16 set forth; the records and Pleadings on file herein, the
17 memorandum of Points and authorities attached here to,
18 and Such Other grounds and evidence as might be addressed
19 at a hearing on this Writ.

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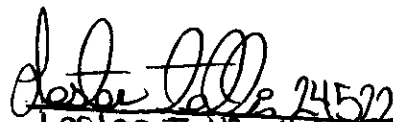
27

28

1 WHEREFORE, Petitioner prays that this Honorable Court
2 Make an "ORDER" directing the Clerk of the Court, to issue a
3 writ of Habeas Corpus directed to the said BILL DONAT, Warden,
4 Commanding him to appear before your Honorable Court, and
5 return the Cause for restraint of the Petitioner,
6

7
8 Dated this 15 day of August 2008


9 Respectfully Submitted,
10

11
12 
13 Lester Tellis #24522
14 Petitioner In Proper Person

15 VERIFICATION

16 UNDER PENALTY OF PERJURY, the Undersigned declares that
17 he is the Petitioner named in the foregoing Writ and knows the
8 Contents thereof, that the pleading is true of his own knowledge,
9 Except as to those matters stated on information and belief,
0 and as to such matters he believes them to be true pursuant
1 to NRS 208.165
2

Date this 15 day of August 2008,


Lester Tellis #24522
Petitioner In Proper Person

1 A. PETITION:

2 POINTS AND AUTHORITIES
3 THE PROCEDURES FOLLOWED BY NEVADA
4 STATE PRISON IN CARSON CITY, DENIED
5 PETITIONER OF COUSEL REQUIRED BY
6 THE SIXTH AND FOURTEENTH AMENDMENT,
7 UNLAWFUL IMPRISONMENTON HIS DUE-
8 PROCESS OF LAW,

9
10 anita Habberfield app ON the date of 1-18-2008, CLS
11 anonymous kite that was Placed Under her Office
12 door in Unit 9, the kite Stated that Lester tellis was
13 in D. Wing taking a Shower With Shawn Jacobson,
14 The Previous day, the kite Went on too allude That
15 Petitioner Was having Sexual intercourse With Shaw
16 Jacobsen, the allegation kite Stated that they had
17 also hed sex in the room, With the door Window
18 Covered up. (See Notice of Charges Exhibit #1),
19 On 1-28-2008 the of disciplinary hearing the Charges
20 or MJ 19 - sextual assault, and MJ 25 - Threat,
21 and MJ 30 - Sextually Stimulating, finding Petitio-
22 ner Guilty on all the Charges, 18 mths ds, lock-up in
23 Unit 13 and C+N Loss for 60 days, Phn-Loss for 30
24 days (See Exhibit #1-A), and Stat Ref (See Exhibit #1-b)
25 Petitioner aPpreciate a review of the taped hearing for
26 The Purpose of this aPpeal date of 1-30-2008 (See Exhi-
27 bit #1-C). on the date of 2-22-2008 Mr. Bill Donat warden,
28 up held Grievance (See Exhibit #1-C) because of the hearing

1 Officer: branham, denied Petitioner of Counsel and
2 Witnesses, (see Exhibit # 1-d). On March 27-2008, a
3 Disciplinary Rehearing, name of hearing Officer: Stankus,
4 Adolph, (see Exhibit # 2). I was suppose to have a Disciplinary
5 Rehearing in 30 days from the date appeal was up
6 held. Yet it was held in 35 days, five days late, and I was
7 not notified of it in writing or at the disciplinary Rehearing,
8 why the person write a anonymous kite, why he dont
9 go and tell housing Officer, so the officer he can be a eye
10 witnesses to the allegation charges against Petitioner,
11 he will have evidence to have Petitioner lock-up for being
12 in a Unauthorized area, and allegation rape, Your Honorable
13 Judge this never happened, if I was in a Unauthorized area,
14 why? didn't I get charges for being in a Unauthorized
15 area on that day of 1-18-2008 allegation having sex in
16 side of the shower, because it never happened, if I were
17 never "charges for being in a Unauthorized area D, Wing".
18 Well how can I be conviction for being in a Unauthorized
19 ed area, allegation having sexual assault threats, sexually
20 stimulating in side of the showers, in D, Wing, and
21 in side of the room, Shawn Jacobson allegation said
22 Petitioner forced him to have sexual intercourse
23 with him approximately 5 or 6 time over the course
24 of the previous 10 months, if Shawn Jacobson get
25 raped 5 or 6 time why didn't he go and tell a officer
26 The first time, or the second, or the third, fourth, five or
27 the sixth time, or call to the house and tell his father
28 and Mother that he being raped, that because it never

1 Once happened to Shawn Jacobson, He are minpulate the
2 SYstem for what he Can get out of it, on the day of 1-17-2008
3 Were is Shawn Jacobson Cell John Bowyer? # 70163, he don't
4 go to School, he don't work, and Were is every one at, it is 24
5 People that live in this Wing, Were is every one at 5 or 6
6 Time over the Course of the Previous 10 month, Shawn
7 Jacobson allegation get raped, and Were the housing Officer,
8 Why he didn't see this happing to Shawn Jacobson, that
9 Because it never once happen "EVERY WING HAVE A
10 CAMERAS VIDEO FOOTAGE", so the Petitioner Should be
11 on Vido on That day of 1-17-2008, and also Petitioner Should
12 be on the Vido 5 or 6 time Over the Course of the Previous 10
13 Month, Your Honorable Judge ~~The~~ Petitioner begging You Sir
14 For a ORDED" For the Camerass Video footage on the day of
15 1-17-2008, and also the Video footage on 5 or 6 time over the
16 Course of the Previous 10 month, and a ORDED for a lie
17 Detector test for the Petitioner and the allegation Victim
18 Shawn Jacobson, so the Petitioner Can Prove that he is
19 innocent, if there is anything i Can do to Prove That i am
20 innocent i will do it, on the date of 1-17-2008, the Petitioner was
21 in the Gym all mornin on that day, give Coach love back his Ches
22 Play, Petitioner also was Playing Chess With Waune Whittmores
23 Roommate housing in 8, in that after noon Petitioner Was at the
24 GYM with his brother Calvin Tellis, and feid Minor, Watching
25 baseket ball Until lock-up on that date of 1-17-2008, Petitioner
26 ask for a DNA Test : because if some body got raped
27 There should have been a DNA

28

1 Test on the allegation Victim that day he said he get
2 raped, to see if the Petitioner raped the allegation
3 Victim on that date of 1-17-2008, on the date of Notice of
4 Charges on that date of 1-22-2008 Petitioner ask for a
5 D.N.A Test, Petitioner also ask for a D.N.A Test from
6 medical on that date of 1-31-2008 (see Exhibit # 2-A),
7 on the date of 2-4-2008 Petitioner Write to the medical
8 about the D.N.A Test (see Exhibit # 2-b), and also on the
9 date of 4-1-2008 Petitioner Write to the medical about
10 his blood was taken on the date of Jan 31-2008 what
11 was the Out Come of his blood (see Exhibit # 2-C), on
12 the date of 1-28-2008 a disciplinary hearing, the Charges
13 or MJ 19- Sexual assault, and a MJ 25- threat, and a
14 MJ 30- Sexually Stimulating, give the Petitioner 18 Mths
15 in lock-up, and Ctn Loss for 60 days, and Phn- Loss for 30
16 days (see Exhibit # 1-A), and also Stat Ref (see Exhibit # 1-b)
17 The hearing Officers Name is branham, Stacy, found
18 Petitioner guilty of these Charges, Petitioner Plead not
19 guilty, and asked Seargent branham for a D.N.A Test and
20 a inmate Counsel, and to Call his Witnesses, Petitioner
21 went threw With the Grievance Process about these
22 rights regarding inmate Counsel and Petitioner right to
23 Call Witnesses on the Petitioner behalf, on the date of
24 2-22-2008 Mr Bill Donat the Warden Grievance up held
25 (see Exhibit # 1-C), because of the hearing Officer:
26 branham, Stacy, denied Petitioner of inmate Counsel
27 (see Exhibit # 1-D), on that date of 1-28-2008 disciplinary
28 hearing is to Protect the Detainee's rights Under the

1 Sixth amendment (Unreasonable Detention);
2 Amendment (Due Process of Law); Cause was Unlawful
3 and Unconstitutional. and also the fourteenth amendm-
4 -ent, and also see the Nevads State Prison AR 1.3.5, 3 Page
5 11 of 31 said, inmate who has been Charged Withe a major
6 Work release Violation Can. if they wish, Consult with
7 an inmate Counsel Substitute Prior to the hearing,
8 Providing that the Classification Committee has
9 assigned the inmate Counsel substitute to that Petitioner.

10

11 B. NEVADS STATE PRISON IN CARSON CITY
12 DENIED PETITIONER OF HIS CONSTITUTION
13 AL RIGHTS TO WITNESSES.

14

15 a Conditional Constitutional right to Call witnesses to
16 testify at Disciplinary hearings, also see AR 707 1.3.5.7 Page
17 11 of 31, said if the inmate Plead "NOT GUILTY" they shall be
18 given a Qualified opportunity to Call witnesses on their
19 behalf, and on the date of hearing 1-28-2008 the hearing
20 Officer: branham. Stact she informed the Petitioner that
21 all the witnesses were denied because he wanted them to
22 confirm that he was in the gym on the day of January 17, 2008.
23 (See Exhibit #10). and also Officer: branham. Stact she inform-
24 ed the Petitioner that he could not Compel the witnesses
25 to testify at the hearing Proceeded, because he is the victim.
26 The AR 1.3.5.7 Page 12 of 31 said, the Disciplinary hearing
27 Officer may take the testimony of any witness (employ-
28 ee or inmate) over the telephone has the Capability

1 For all Present at the hearing to hear the Questions and
2 answers.

3 Court held Petitioner's right to Call witnesses
4 Was not adequately Protected... because the hearings
5 Officer lacked the opportunity to Judge the authentic-
6 ty of the witnesses' refusals, See: Hill v. Selsky, 19 A.D.
7 3d 64, 795 NYS, 2d 794 CNY Sct. App. Div 3rd

8 See New York
9 Supreme Court held that a Prison disciplinary hearings
10 Officer erred in refusing to Personally inter view Potenti-
11 -al witnesses, the Court Ordered expungement of all
12 references to the disciplinary Proceedings and restor
13 ation of lost good time. (See Exhibit # H).

14 minnesota Court
15 Invalidates "Some Evidence" Standard in Disciplinary
16 hearings for Fact-finding. the Court held that the "Some
17 evidence" Standard of Superintendent, Massachusetts
18 Correctional Institution at Walpole v. Hill, 472 U.S. 445
19 (1985) (See Exhibit # I).

20

21 C NEVADS STATE PRISON IN CARSON CITY
22 DOES NOT RESPOND IN TIME FRAME REQUIRED
23 BY THE CONSTITUTION FOR DISCIPLINARY
24 REHEARING

25 On the date of 3-27-2008 the name
26 of the hearing Officer: Stankus, adolph (See Exhibit # 2)
27 I Was Suppose to have a disciplinar Re hearing in 30
28 days from the date appeal was up held. Yet it was held

1 for 35 days and i was not notified of it in Writing or
2 in disciplinary Re hearing on taped for such a delay.
3 (see Per AR 707 04), 12 of 38, 1.3.4.1 and 1.3.4.2 Second
4 1.3.4.1 Charger shall be heard ~~no~~ Late then 30 days.
5 and Officer Stankus, adolph, he increased my Sanction
6 from 18 months to 24 months, 60 days Loss of Canteen
7 and 60 days loss of Property which according to AR 04
8 Page 18 of 38, 1.5.4.3 after reaching a decision concerning
9 the appeal, the State Statutory, and federal law, and my
10 Due process by the United States Constitution, the
11 Procedures followed by nevada's State Prison in Carson
12 City did not provide Petitioner lester tellis with a disciplinary
13 Re hearing in 30 days from the date appeal was up held, as
14 required by the fourth amendment, subsequent to the
15 Unlawful imprisonment on his disciplinary Re hearing
16 This Court should find that N.S.P, subjected Petitioner to impe-
17 rmissible delay in bring Petitioner before the disciplinary
18 Re hearing within the requisit time period of 30 days, should
19 therefore the Conviction against Petitioner based on the
20 Violations of Petitioner's 6th and 14th amendment the U.S.
21 Constitutionally Protected rights, therefore Petitioner's
22 Conviction must be dismiss.

23 The Court agreed with
24 Kolomitz's findings on the use of C.I.s, citing the of-used
25 Mariani v. LDOC 956 P.2d 625 (Colo. App, 1997), in that both
26 Confidential testimony and Confidential documents
27 are subject to the same standards of reliability, and
28 Procedures used, Most importantly regarding remedies,

1 the Court sided with Judge Kolomitz in that the CDOC does
2 Not get "another bite at the apple" (Quoted from his earlier
3 district Court rulings in other similar cases), when it violates
4 Prisoner's disciplinary rights, the appellate Panel concluded
5 that the specific COPD language, which reads "When a
6 conviction is reversed on an appeal, or for administrative
7 reasons, (see Expungement; not Re hearing; mandated
8 in Colorado Disciplinary Reversals), (see Exhibit # J), and
9 also on the date 3-27-2008 disciplinary Re hearing, name
10 of hearing Officer: Stankus Adolph, statement of
11 offender Petitioner said: the whole notice of charges is
12 wrong, they say that they took us to the infirmary
13 which never happened, so that is a lie, sexually assaulti-
14 ng the kid was wrong, the whole write up is wrong, Petiti-
15 oner had asked for a DNA Test and can't get no DNA
16 Test so that's the ONLY way I can prove my innocence, so
17 I am gonna get railroaded, he is a Psych Patient how
18 can they take his word over my word any way," (see Exhibit-
19 # 2-d, page 2 of 4), and also on the notice of charges
20 date charges written 1-22-2008 (see Exhibit # 1), are a
21 lie, the charging Employee Adam Watson said that they
22 took both inmates to medical, medical will be conducting
23 blood tests, on that day of 1-18-2008, which is a lie's that
24 "Never happened", on the day of 1-18-2008 a officer
25 took Petitioner to Unit 13-A-32 lock-up, the Nurse came
26 to Unit 13 to talk Petitioner blood 13th days late, on the
27 day of 1-31-2008 (see Exhibit # 2-A),

28

See New York Disci-

1 -plinary Office - Must Interview Witnesses (See Exhibit -
2 - #H). this Court should find that Nevada State
3 Prison in Carson City, subjected Petitioner Lester Tellis to
4 impermissible delay in bring Petitioner before the discipl-
5 -inary Re hearing within the requisite time period of days,
6 and should therefore reverse the conviction against
7 Petitioner based on the violations of Petitioner's 4th, 6th
8 and 14th Amendment to the U.S. Constitutionally Protect-
9 -ed Rights, having deprived Petitioner of "Due Process" by
10 denying Petitioner of his Disciplinary Re hearing in 30
11 days, and having deprived Petitioner of the MOST IMPOR-
12 -TANTLY regarding remedies, the Court sided with Judge
13 Kolomitz in that the CDOC does not get "another
14 bite at the apple" (Quoted from his earlier district
15 Court rulings in Other Similar Cases) when it violates
16 Prisoner's disciplinary Rights, the appellate Panel Concl-
17 -uded that the specific COPD language, which reads"
18 When a Conviction is reversed on an appeal, or for admi-
19 -nistrative reason, an expungement Order shall be
20 completed," (See Exhibit # J). I have Proof regarding the
21 times and dates, if I have hepatitis + HIV. (See Exhibit
22 # 2-C) Wouldn't the allegation Victim Shawn Jacobson also
23 have it if I did these immoral acts? "AWO Watson allegati-
24 -ons investigated" the Claim made by the "ANONYMOUS KITE"
25 and it was determined that Lester Tellis had forced Shawn
26 Jacobson to have Sexual intercourse with him approxim-
27 -ately 5 or 6 time over the course of the previous 10 mon-
28 -ths, where did AWO Adam Watson get his so call informat-

1 - ion, AWO Adam Watson did not asked the Petitioner
2 about the anonymous kite. (see Exhibit #1).

3
4 4-18-2008 i appeal from the first Level Grievance to the
5 Director. (see Exhibit #4). ON the date of

6
7 office Denied Petitioner appeal. (see Exhibit #4-A). On the date of 6-6-2008 Director's

8
9 I do have three Written Statements on my behalf one of
10 which is Todd C. Rogers # 32854 (see Exhibit # 2-E). I also
11 have two more Statements which was Shawn's Jacobson
12 room mate John Bowyer # 70163 (see Exhibit # 2-F), and one
13 from Steven L. Hamilton # 94499 (see Exhibit # 2-G), There
14 fore, the ensuing Conviction is Voidable.

15
16 This Court must
17 reverse Petitioner's Conviction and dismiss the Charges
18 and Case with Prejudice

19 Dated this 15 day of August 2008


20
21 BY Lester Tellis # 24522
22 Lester Tellis # 24522
23 ELY State Prison P.O. Box 1989
24
25 ELY NV 89301
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VERIFICATION

I, Lester Tellis, do hereby declare under penalty of perjury that the assertions of the Notice of Original Jurisdiction for writ of Habeas Corpus all writ for Petitioner Present Unconstitutional Prior Restraint of Liberty, NRS 34, 185, NRS 34, 320, NRS 34, 360, are true and correct to the best of my knowledge, except those matters stated on information and belief, and as to such matters based on information and belief, I believe to be true as well.

DATED this 15 day of August 2008



Lester Tellis #24522

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EXECUTION OF INSTRUMENT BY PRISONER

NRS 208.165. A prisoner may execute any instrument by signing his name immediately following a declaration "under penalty of perjury" with the same legal effect as if he had acknowledged it or sworn to its truth before a person authorized to administer oaths, as used in this section. "Prisoner" means a person confined in any jail or prison, or in any facility for the detention of juvenile offenders in this state.

EXECUTED, At the Nevada State Prison, Carson City, Nevada on this 15 day of August 2008.

BY 
Lester Tellis #24522

CERTIFICATE OF MAILING

I, Lester Tellis, do hereby Certify that I mailed a true and correct
Copy of the foregoing NOTICE OF ORIGINAL JURISDICTION FOR
WRIT OF HABEAS CORPUS AND WRIT FOR PETITIONER PRESENT
UNCONSTITUTIONAL PRIOR RESTRAINT OF LIBERTY, NRS 34,185,
NRS 34,320, NRS 34,360, to
the address herein below on this 15 day of August 2008
by placing same into the hands of Prison Correctional Staff for
posting in the United States Mail pursuant NRCF Rule 5(b);

District Attorney
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1271

Lester Tellis # 24522

Lester Tellis # 24522

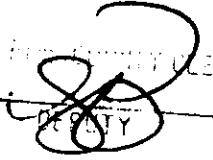
EIY State Prison
P.O. Box 1989
EIY NV 89301

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Case NO, HC-0809015
Dept NO, 1

District Court White Pine
County, Nevada

FILE
2009 MAR 23 PM 3:13
BY: 

Lester Tellis
Petitioner
vs.
Bill Donat Warden
Respondent

OPposition to
Motion to Dismiss

Date of Hearing:
Time of Hearing:

Comes Now, Your mute Lester Tellis, in propria Person,
Hereby Requests the Honorable Courts, of the loss of Petitioner
Statutory Credits, Stat time (See Exhibit # 1-b), in the
Petitioner Writ of habeas Corpus all Writ for Petitioner Present
Unconstitutional, Prior restraint of liberty, NRS 34.185 NRS 34.320
NRS 34.360

The hearing Officers branhm Stacy, when a
Prison disciplinary hearing may result in the Loss of statutory
Credits the inmate must receive: (1) advance written notice
of the disciplinary charges: (2) an opportunity, when
consistent, with in stitutional safety and correctional
goals, to call witnesses and present documentary evidence
in his defense: and (3) a written statement by the fact
finder of the evidence relied on and the reasons for the
disciplinary action, [3] Prisons § 13 (7,1.)
[1] [2] Respondent Concedes that depriving Petitioner

1 Lester Tellis of 4.50 days of Statutory Credits, that is Stat time.
2 (See Exhibit # 1-b), and also see the Stat Ref, by Officers
3 Branham Stacy Disciplinary hearing date of Service January
4 28-2008 (Exhibit # 1-A) as discipline for alleging Petitioner
5 Violating Prison rule, and breaking the Law, implicates a liberty
6 interest that is protected by the due Process Clause See Wolff v.
7 McDonnell, 418 U.S, 539, 555-58, 94 S, ct 2963, 41 L, Ed 2d 935 (1974)
8 however, the Process Constitutionally due to inmates takes into
9 account "the structure and content of the Prison disciplinary
10 hearing" Id at 561, 94 S, ct, 2963, in general, when a Prison discipl-
11 inary hearing may result in the loss of Statutory Credits,
12 That is the Stat time, (See Exhibit # 1-b).

14 VERIFICATION

15
16 Under Penalty of Perjury, the Undersigned declares that he
17 is the Petitioner named in the foregoing Motion, and knows the
18 contents thereof, that the Pleading is true of the Petitioner own
19 knowledge, except as to those matters stated on information
20 and belief, and as to such matters believes them are true

21 Pursuant to NRS 208,165

22 Date this 3-19 day of 2009

23 Lester Tellis #24522
24 Lester Tellis
25 Petitioner in proper person
26
27

CERTIFICATE OF MAILING

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I Lester Tellis #24522, do hereby Certify that I am mailed a True and Correct Copy of the foregoing OPPosition to motion To Dismiss, the address herein below on this Dated of ~~31st~~ 31st of 2009, by Placing Same in to the hands of Prison Correctional Staff for Posting in the United States Mail Pursuant NRELP RULE 5 (b);

To: Honorable Steve L. Dobrescu
Seventh Judicial District Court, Dept, 1
801 Clark Street, Suite #7
ELY, NV 89301

To: Carol R. Fielding
White Pine County Clerk
801 Clark Street, Suite #4
ELY, NV 89301

Michael J. Rongard
Deputy Attorney General
1539 Avenue F ELY Nevada 89301

Will You Please Send a filed Copy back of this OPPosition to This Motion, I appreciate Your time and Cooperation in this Matter, thank You.

Lester Tellis #24522
Lester Tellis
Petitioner in proper person

Statutory Forfeiture/Restoration Referral Report

BA27

Date: February 21, 2008
Name: TELLIS, LESTER
Offense: UDW
PED/MPR: 11-01-2008

Institution: Nevada State Prison
DOC#: 24522

Projected Discharge: LIFE

Subject Disciplinary Case

Nature of Incident

STG Assault/Battery Escape Drug Res Con Weapon Other

Institution: NSP
Charges: MI19, MI25, MI30
Findings: GUILTY
Sanction: 18 Months Disciplinary Segregation, and Restitution
Date of Incident: 01-18-2008
Date of Charging Officer Hearing: 02-28-2008
Date of Disciplinary Hearing: 02-22-2008
Date of Completed Investigation: NA
Reason for delay: NA
Synopsis of Incident: Inmate forced another inmate to have sex with him 5 or 6 times a 10 month period

* Prior Forfeiture and Restoration of Statutory Credits

Date	Amount of Time	Action (forfeit/restore)	Comments
01-27-1998	30	FORFEITURE	MJ35

Forfeiture Recommendation
Possible Category: A Recommendation: A
Comments:

POSTED

Restoration Recommendation NDOC Parole Board
Amount of days in question:
Date of Classification Committee Hearing:
Inmate Programming Accomplishments:

Correctional Casework Specialist: [Signature] Date: 2-21-08
Warden: [Signature] NSP Date: 2-21-08
To be completed by Offender Management Division
Date Received: 2-25-08 Confirmed Category: A Offense Date: 1-18-08
Serving Date: 2-28-08 Hearing Date: 2-22-08
Correctional Case Records Manager will complete the amount of stat time subject to forfeiture or restoration: 502

Parole Revocation Restorations
Approved and forward to the Parole Board
Disapproved and return to the Warden
NDOC Action:
Credit Forfeiture: 450 Credit Restoration:
Director/Designee: [Signature] Date: 3-28-08

cc: Original to C-File via Correctional Case Records Manager
1st Copy to I-File via Institution Associate Warden of Programs/Facility Manager (Exhibit #1-B)
2nd Copy to Inmate
11/03 11W