

United States District Court  
DISTRICT OF NEVADA

Robert Johnson

Plaintiff/Petitioner,

v.

State of Nevada

Defendant/Respondent,

APPLICATION TO PROCEED  
IN FORMA PAUPERIS  
FOR INMATE

CASE NUMBER:

I, Robert Johnson, declare that I am the (check the appropriate box)

Plaintiff  
(filing 42 U.S.C. § 1983)

Petitioner  
(writ of habeas corpus  
28 U.S.C. §§ 2254 or 2241)

Movant  
(filing 28 U.S.C. § 2255 motion)

Other  
 Defendant/Respondent

in this case. I am unable to prepay the fees of this proceeding or give security because of my poverty. I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees incurred by me as a result of being granted leave to proceed *in forma pauperis*.

In further support of this application, I answer the following questions:

1. Are you presently employed?  Yes  No

a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer. (List gross and net salary.)

b. If the answer is "no," state the date of last employment and the amount of the salary or wages per month which you received. 03\06\2019

\$420.00 per month

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or other form of self-employment?  Yes  No

- b. Rent payments, interest or dividends?  Yes  No
- c. Pensions, annuities or life insurance payments?  Yes  No
- d. Gifts or inheritances?  Yes  No
- e. Any other sources?  Yes  No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. *mother \$200 in the past 12 months*

3. Do you own any cash, or do you have money in checking or savings accounts (include any funds in prison accounts, and any funds on deposit with a bank, saving & loan, etc., outside the prison)?  Yes  No

If the answer is "yes," state the total value and list the location of each account, type of account, and amount or balance in the account. Do not include your account number(s).

*\$ 3,150.00 savings*

4. Do you own or have any interest in any real estate, stocks, bonds, notes, trusts, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?  Yes  No

If the answer is "yes," describe the property, its location and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support each month.

6. Do you receive any income from disability, Social Security or any other pension?  Yes  No

If the answer is "yes," describe the source and amount received each month.

7. Have you placed any property, assets or money in the name or custody of anyone else in the last two years?  Yes  No

If the answer is "yes," give the date, describe the property, assets or money, give the name of the person given custody of the item and the reason for the transfer.

### ACKNOWLEDGMENT

I, the undersigned, acknowledge that I have read the foregoing and that the information contained therein is true and correct to my own knowledge and belief.

Further, I state that I have not directly or indirectly paid or caused to be paid to any inmate, agent of an inmate, or family member of any inmate a sum of money, favors or anything else for assistance in the preparation of this document or any other document in connection with this action.

Further, I acknowledge that if any of the information included in this motion for leave to proceed *in forma pauperis* is false or misleading, I understand that sanctions may be imposed against me. Those sanctions may include, but are not limited to, the following:

- (1) dismissal of my case with prejudice;
- (2) imposition of monetary sanctions;
- (3) the Nevada Department of Prisons may bring disciplinary proceedings for a violation of MJ-48 of the Code of Penal Discipline, which can include all sanctions authorized under the Code including the loss of good time credits and punitive confinement; and
- (4) perjury charges.

Further, I hereby authorize the United States District Court, District of Nevada, or its representative, to investigate my financial status, and authorize any individual, corporation, or governmental entity to release any such information to the said Court or its representative.

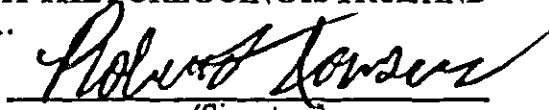
Further, I acknowledge and consent that a portion of any recovery, as directed by the court, shall be paid to the clerk for reimbursement of all fees and costs incurred by me as a result of being granted leave to proceed *in forma pauperis*.

Dated this 3 day of May, 2024.

  
(Signature of Applicant)

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Signed at LCC  
(Location)

  
(Signature)

05\03\2024  
(Date)

1776028  
(Inmate Prison Number)

Robert Johnson

Name

#122602R

Prison Number

LOVELOCK CORRECTIONAL CENTER

Place of Confinement

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Robert M. Johnson Petitioner, )  
(Full Name) )

vs. )

State of Nevada Respondent, )  
(Name of Warden, Superintendent, jailor or )  
authorized person having custody of petitioner) )

and )

The Attorney General of the State of Nevada )

CASE NO. \_\_\_\_\_  
(To be supplied by the Clerk)

PETITION FOR A  
WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2254  
BY A PERSON IN STATE CUSTODY  
(NOT SENTENCED TO DEATH)

- Name and location of court, and name of judge, that entered the judgment of conviction you are challenging: 2nd Judicial District Court Washoe County Judge Esay Walker
- Full date judgment of conviction was entered: 09/18/2019 (month/day/year)
- Did you appeal the conviction?  Yes \_\_\_ No. Date appeal decided: 10/23/2019
- Did you file a petition for post-conviction relief or petition for habeas corpus in the state court?  Yes \_\_\_ No. If yes, name the court and date the petition was filed: 2nd Judicial District Court 05/21/2023. Did you appeal from the denial of the petition for post-conviction relief or petition for writ of habeas corpus? \_\_\_ Yes  No. Date the appeal was decided: 1/1/. Have all of the grounds stated in this petition been presented to the state supreme court? \_\_\_ Yes  No. If no, which grounds have not? Violation of Miranda warning, coercion
- Date you are mailing (or handing to correctional officer) this petition to this court: 05/05/24. Attach to this petition a copy of all state court written decisions regarding this conviction.

LCJ 11 FORM 36.068

6. Is this the first federal petition for writ of habeas corpus challenging this conviction?  Yes  
 \_\_\_ No. If no, what was the prior case number? N/A. And in what court was  
 the prior action filed? N/A  
 Was the prior action \_\_\_ denied on the merits or \_\_\_ dismissed for procedural reasons (check  
 one). Date of decision: 1/1. Are any of the issues in this petition raised in the  
 prior petition? \_\_\_ Yes  No. If the prior case was denied on the merits, has the Ninth  
 Circuit Court of Appeals given you permission to file this successive petition? \_\_\_ Yes  No.

7. Do you have any petition, application, motion or appeal (or by any other means) now pending in  
 any court regarding the conviction that you are challenging in this action? \_\_\_ Yes  No.  
 If yes, state the name of the court and the nature of the proceedings: N/A

8. Case number of the judgment of conviction being challenged: CR19-2095

9. Length and terms of sentence(s): 3 to life ran consecutive and aggregated

10. Start date and projected release date: 04/2/2019 04/2/2049

11. What was (were) the offense(s) for which you were convicted: 3 Counts of  
 lewdness with a minor under the age of 14

12. What was your plea?  Guilty \_\_\_ Not Guilty \_\_\_ Nolo Contendere. If you pleaded guilty  
 or nolo contendere pursuant to a plea bargain, state the terms and conditions of the agreement:  
3 to life ran consecutive and then aggregated

13. Who was the attorney that represented you in the proceedings in state court? Identify whether  
 the attorney was appointed, retained, or whether you represented yourself *pro se* (without counsel).

	Name of Attorney	Appointed	Retained	<i>Pro se</i>
arraignment and plea	<u>Jaclyn Milsap</u>	<input checked="" type="checkbox"/>	___	___
trial/guilty plea	<u>Jennifer Mayhew</u>	<input checked="" type="checkbox"/>	___	___
sentencing	<u>Jennifer Mayhew</u>	<input checked="" type="checkbox"/>	___	___
direct appeal	_____	___	___	___
1st post-conviction petition	<u>Edward T. Reed</u>	<input checked="" type="checkbox"/>	___	___
appeal from post conviction	_____	___	___	___
2nd post-conviction petition	_____	___	___	___
appeal from 2nd post-conviction	_____	___	___	___

State concisely every ground for which you claim that the state court conviction and/or sentence is unconstitutional. Summarize briefly the facts supporting each ground. You may attach up to two extra pages stating additional grounds and/or supporting facts. You must raise in this petition all grounds for relief that relate to this conviction. Any grounds not raised in this petition will likely be barred from being litigated in a subsequent action.

**GROUND 1**

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my

\_\_\_\_\_ Amendment right to remain silent \_\_\_\_\_

based on these facts:

the detectives began questioning I stated I  
did not want to talk anymore and they  
continued to question me which is a violation  
of my right to remain silent

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Exhaustion of state court remedies regarding Ground 1:**

▶ **Direct Appeal:**

Did you raise this issue on direct appeal from the conviction to the Nevada Supreme Court?

Yes  No. If no, explain why not: ~~that~~ I was told that it would not stand in court

▶ **First Post Conviction:**

Did you raise this issue in a petition for post conviction relief or state petition for habeas corpus?

Yes  No. If no, explain why not: I was told it would not stand in court

If yes, name of court: 2nd Judicial District date petition filed 01/15/23

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not: I was told it would not stand in court

If yes, did you raise this issue?  Yes  No. If no, explain why not: I was told it would not stand in court

▶ **Second Post Conviction:**

Did you raise this issue in a second petition for post conviction relief or state petition for habeas corpus?

Yes  No. If yes, explain why: did not do second post conviction

If yes, name of court: \_\_\_\_\_ date petition filed 1/1

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not: N/A

If yes, did you raise this issue?  Yes  No. If no, explain why not: N/A

▶ **Other Proceedings:**

Have you pursued any other procedure/process in an attempt to have your conviction and/or sentence overturned based on this issue (such as administrative remedies)?  Yes  No. If yes, explain: N/A

State concisely every ground for which you claim that the state court conviction and/or sentence is





Did you raise this issue on direct appeal from the conviction to the Nevada Supreme Court?

Yes  No. If no, explain why not: was told it would not stand in court

► **First Post Conviction:**

Did you raise this issue in a petition for post conviction relief or state petition for habeas corpus?

Yes  No. If no, explain why not: was told it would not stand in court

If yes, name of court: 2nd Judicial district date petition filed 01/15/23

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not: was told it would not stand in court

If yes, did you raise this issue?  Yes  No. If no, explain why not: was told it would not stand in court

► **Second Post Conviction:**

Did you raise this issue in a second petition for post conviction relief or state petition for habeas corpus?

Yes  No. If yes, explain why: N/A didnt do second post conviction

If yes, name of court: N/A date petition filed 1/1

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not: N/A

If yes, did you raise this issue?  Yes  No. If no, explain why not: N/A

► **Other Proceedings:**

Have you pursued any other procedure/process in an attempt to have your conviction and/or sentence overturned based on this issue (such as administrative remedies)?  Yes  No. If yes, explain: N/A

State concisely every ground for which you claim that the state court conviction and/or sentence is unconstitutional. Summarize briefly the facts supporting each ground. You may attach up to two



Yes  No. If no, explain why not:   n/a  

► **First Post Conviction:**

Did you raise this issue in a petition for post conviction relief or state petition for habeas corpus?

Yes  No. If no, explain why not:   n/a  

If yes, name of court:   n/a   date petition filed   /  /  

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not:   n/a  

If yes, did you raise this issue?  Yes  No. If no, explain why not:   n/a  

► **Second Post Conviction:**

Did you raise this issue in a second petition for post conviction relief or state petition for habeas corpus?

Yes  No. If yes, explain why:   n/a  

If yes, name of court:   n/a   date petition filed   /  /  

Did you receive an evidentiary hearing?  Yes  No. Did you appeal to the Nevada Supreme Court?  Yes  No. If no, explain why not:   n/a  

If yes, did you raise this issue?  Yes  No. If no, explain why not:   n/a  

► **Other Proceedings:**

Have you pursued any other procedure/process in an attempt to have your conviction and/or sentence overturned based on this issue (such as administrative remedies)?  Yes  No. If yes, explain:   n/a  

**WHEREFORE**, petitioner prays that the court will grant him such relief to which he is entitled in this federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 by a person in state custody.

\_\_\_\_\_  
(Name of person who wrote this  
complaint if not Plaintiff)

Robert Johnson  
(Signature of Plaintiff)

05/1/2024  
(Date)

\_\_\_\_\_  
(Signature of attorney, if any)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Attorney's address & telephone number)

**DECLARATION UNDER PENALTY OF PERJURY**

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Executed at love oak correctional center on 05/1/2024.  
(Location) (Date)

Robert Johnson  
(Signature)

1726028  
(Inmate prison number)

1 Robert Johnson # 1226079  
2 Lovelock Correctional Center  
3 1200 Prison Road ;  
4 Lovelock, Nevada 89419

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Petitioner In Pro Se

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\*\*\*\*\*

Case No. ~~2024-00005~~ 125

Petitioner,,

-vs-

Robert Johnson ,

Respondents.

MOTION FOR APPOINTMENT OF COUNSEL

COMES NOW Petitioner, Robert Johnson, in pro se, and moves this Court for an order appointing him counsel in and for the instant § 2254 habeas corpus proceeding.

This motion is made and based upon 18 U.S.C. § 3006A(g), 28 U.S.C. § 1915(e)(1), 28 U.S.C. § 2254(h); all papers, pleadings and documents on file herein; and the following points and authorities.

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

Petitioner is unable to afford counsel. See Application to Proceed In Forma Pauperis on file herein.

The substantive issues and procedural matters in this case are too complex for Petitioner's comprehension and abilities.

Petitioner, by reason of his incarceration, cannot investigate, take depositions, or otherwise discover evidentiary materials on his own accord.

LCC11 FORM 36.046

1 Petitioner's sentence structure is 30 to life.

2 There ✓ are     are not additional facts attached hereto on additional  
3 page(s) to be incorporated herein.

4 Counsel could not only assist Petitioner with a much better presentation  
5 of the substantive and procedural issues before this Court, e.g., merits of the  
6 claims, AEDPA's § 2254(d) test, exhaustion, etc., but counsel would likewise  
7 make much easier this Court's task of discerning the issues and adjudicating  
8 them as upon a competent counsel's ability to present same to the Court.

9 The ends of justice would best be served in this case via the appointment  
10 of counsel, as Petitioner's sentence structure, in conjunction with the  
11 complexities of the legal issues herein, plead for such an appointment.

12 **II. ARGUMENT FOR APPOINTMENT**

13 Appointment of counsel in § 2254 cases is authorized within 18 U.S.C.  
14 § 3006A(g) and 28 U.S.C. §§ 1915(e)(1); 2254(h). This Court may appoint  
15 counsel where the "interests of justice" so require. Jeffers v. Lewis, 68 F.3d  
16 295, 297-98 (9th Cir. 1995). This interest is best served when indigent  
17 petitioners who are unable to "adequately present their cases" are appointed  
18 counsel to do so for them. Id.

19 Although appointment is usually within this Court's sound discretion, a  
20 handy formula for this Court's consideration is a balancing of the complexities  
21 of the issues with a consideration of the severity of the petitioner's penalty.  
22 Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir.), cert. denied, 481 U.S. 1023  
23 (1987). Ultimately, however, absent a due process implication, this Court has  
24 discretion to appoint counsel when it feels that it promotes justice in doing  
25 so. Id. See Brown v. United States, 623 F.2d 54, 61 (9th Cir. 1980)(court  
26 must appoint counsel where the complexities of the case are such that denial of  
27 counsel would amount to denial of due process); Hawkins v. Bennett, 423 F.2d  
28 948 (8th Cir. 1970)(counsel must be appointed where petitioner is a person of

1 such limited education as to be incapable of presenting his claims fairly).

2 Petitioner submits that the facts above, in conjunction with these legal  
3 principles, compel appointment of counsel. Indeed, the complexities of the  
4 issues in relation to Petitioner's sentence, implicate the need of counsel to  
5 promote not only justice, but fairness, as well. Jeffers, 68 F.3d at 297-98.

6 **III. CONCLUSION**

7 For the reasons set forth above, this Court should appoint counsel to  
8 represent Petitioner in and for all further proceedings in this § 2254 habeas  
9 corpus action.

10 Dated this 1 day of May, 2024.

11 Respectfully submitted,

12 Robert Johnson  
Robert Johnson #1226029  
13 Lovelock Correctional Center  
14 1200 Prison Road  
Lovelock, Nevada 89419

15 Petitioner In Pro Se

16 ///  
17 ///  
18 ///  
19 ///  
20 ///

I have add. and adhd and a comprehension  
Problem I was in special education classes  
all through grade school ~~so~~ so it is  
difficult for me to understand things  
Please help me with getting an  
attorney