

Public Comment

NSC Misdemeanor Subcommittee

Submitted by: Tonja Brown

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On behalf of Advocates for the Inmates and the Innocent, we are submitting this document to the Nevada Department of Sentencing Policy for the public record of the upcoming July 24, 2024, meeting.

Agenda Item 3, Public Comment for a possible "discussion of Potential Topics".

Respectfully,

Tonja Brown.

Advocates for the Inmates and the Innocent
numentorialsfund@aol.com

775-671-5037

Michael Adkisson #84280
P.O. Box 7000 N.N.C.C.
Carson City NV 89402

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TONYA BROWN
2907 LUKENS LANE
CARSON CITY NV 89706

#1 Juvenile issue and #2

RE: SENTENCING COMMITTEE / "CHEVRON DEFERENCE"

Dear Tonya

I hope all is well with you and yours! In anticipation of your efforts related to the "juvenile" age issue, I have provided Bern Brown with your address in order to inform/support your position. Mr. Brown has a current PETITION related to this issue pending in the SECOND JD at case No. CR 00-1295. Unfortunately, I cannot support the particular "POLITICAL" posture. My experience in LIFE, with 21 yrs spent in Prison informs my position sufficiently to understand that this is an issue that MUST be allowed to be dealt with in a case by case basis - NOT based upon pseudo-science. I am struck by the Political efforts implicated in the FINDING of such conclusions that have REAL-LIFE Potential to EXPOSE our Society to potential psychopaths DUE ONLY to consideration of their age when they committed the Crime. FIRST DEGREE murder and FELONY MURDER and the related life without sentence is appropriate - TO REDUCE the sentence by EXCUSE of "AGE"

Forgoes any analysis of the CHARACTER of THE OFFENDER / Related REFORM, if any, and does not distinguish one BAD GUY from any other or any REFORMED Soul.

To date I have NOT encountered ANY person that I would allow to live within my neighborhood under the guise of the claim of "SCIENCE". In my view, we MUST ensure that our officials are empowered to consider a PARDON or commutation for the affected Offender Population - THE RISK IS TOO GREAT - "Inevitably we will unwittingly release the NEXT

JOHN WAYNE GAYSE or worse, TO RELY on the "AUTHORITY" of what is best described as Political "Junk-Science" is a GAMBLE - I support Putting the PARDONS BOARD in Full Control of this Described Problem, . . .

Unfortunately - the PARDONS Board is NO MORE than a Cottage Industry for Favored Attorneys with deliberate Co-operation. TAKE for EXAMPLE the fact that the PARDONS BD is an EXECUTIVE BRANCH AGENCY with NO BUDGET, in order to Consider my application. Instead, the Members of the Board are also Judicial Officers within the

Judicial Branch. Applications from favored attorneys are processed BY THE JUSTICES' staff at the expense of the JUDICIARY BUDGET. This mis-use of public funds is a common custom and practice improperly afforded only to "FAVORED" Persons . . .

I think after the "JUNK-SCIENCE" concerning COVID-19 ie; masks, social dist., vaccine efficacy, vaccine safety, THE WHOLE WORLD IS RIGHTFULLY concerned with Counter claims concerning SCIENCE, when our EYES and experience inform us to the contrary. !!!

"CHEVRON DEFERENCE"

In a return to Constitutional principles, the Supreme Court of the United States overruled "Chevron Deference" in: LOPER BRIGHT ENTERPRISES ET AL V. RAIMONDO, Secretary of Commerce ET AL, June 28 2024

This decision has significant implications related to Nevada's Executive Branch Agency Regulations. The issue(s) we are now confronted with will trigger a Judicial review and determination of ANY REGULATION that works to effectively address "MATTERS OF LAW"

In Nevada, Article 6 assigns to the state Judiciary the responsibility and power to hear and determine justiciable controversies including questions of law alone. However, as a consequence of a complete failure to act as a check upon Administrators ZEL within the Executive Branch, many Regulations operate to ANSWER QUESTIONS RELATED TO MATTERS OF LAW, and are afforded deference even when the courts disagree.

This problem is HIGHLIGHTED in a case currently before the Nevada Supreme Court in JAMES MENOR VALDEZ V. BOARD OF PRISON COMMISSIONERS case No. 87753 prepared with the assistance of Michael Adkisson and Paul Klein. The Valdez case points out that the Nev Const Art 3 protects citizens from overzealous Executive Branch overreach in the promulgation of Regulations. The legislature must first authorize Executive Branch Agencies to Adopt Regulations. In Nevada the Dept. of Corrections has NEVER been authorized to adopt Regs.

The law that authorizes Executive Branch Agencies to Adopt Regulations is N.R.S. 233B. The Nevada Dept. of Correction has been EXEMPT from the law that works TO AUTHORIZE Executive Branch Agencies to Adopt Regulations since the inception of N.R.S. 233B. However this did not stop the N.D.C. from promulgating what must now be recognized as Fugitive Regulations. The Dept's Regulations have thus far escaped review as a result of misguided deference.

The SCOTUS Decision in Loper threatens to REVEAL a Serious State liability relate to prison Regulations adopted and promulgated by unilateral fiat.

Significantly, when we consider that as a MATTER OF LAW the NEVADA CRIMINAL PROCEDURE LAW (TITLE 14) establishes that each Single Court and corresponding Single Jury verdict results in a Single Conviction and a Single Sentence of Imprisonment.

However, Nevada Courts routinely impose two Separate and distinct Sentences for one Court when considering N.R.S. 143.165 (use d.w.) in conjunction with the underlying Conviction. despite the admitted legal framework of a Single Conviction Single Sentence. Once imprisoned in this manner there is NO consecutive or Second Conviction for the consecutive Sentence, in this circumstance, the Dept promulgated (FUGITIVE) Regulations that work to "ANSWER QUESTIONS OF LAW" and does assign a representation of a Second Valid Conviction and Defines the USE of a Deadly Weapon as a SECOND Conviction under the Single Court by and through the premise or GUISE of a REGULATORY SCHEME, Until Now, with the BAD Practice to afford the Dept of Corrections and related Parole Bd. Regs DEFERENCE THESE SERIOUS MATTERS OF LAW THAT WORK to Imprison without a Conviction escaped A Judicial Review impacting Free and Fair Elections