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April 30, 2003

Senate Judiciary Committee

Re: Assembly Bill 103.

Dear Members of the Committee :

I am opposed to this bill just as I was in 1999 to AB 78 which is this bill resurrected. This bill is not well thought out and is directly in response to my demands to the Department of Corrections to comply with NRS 176.335(4) in 1999 and again in 2003. This is why the request for a bill (NDOC) was not made before the 2001 session, as I did not bring this to NDOC's attention between 1999 and 2001. I demanded my Judgment of Conviction (hereinafter JOC) to be endorsed and filed pursuant to NRS 176.335(4) in 1999. Yet my JOC was not processed until the very day I testified in opposition to AB 78 on Feb. 18, 1999. See Exhibit A attached. Yet the NDOC would not follow this statute for others. In fact NDOC testified that they have not obeyed this statute for decades. I apparently am the only one in Clark County who ever received their JOC per 176.335(4).

My conviction is still being challenged in federal court. In that case, two court cases were cited by the federal judge that demonstrates one of the problems that failure to follow 176.335(4) can cause. In Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241, 242 (Nev. 1999) the district court was acknowledged to have made a finding of fact, crucial to the resolution of the case, that "Jackson" had completed serving his sentences on March 10, 1982. This finding of fact was necessary because NRS 176.335(4) was not complied with. Otherwise, the Courts would have known exactly when Jackson had completed his sentences. Also, in Washington v. State, 112 Nev. 1054, 1059 n. 4 921 P.2d 1253, 1256 n.4 (Nev. 1996) the court had to presume "Washington" had completed his sentence, because NRS 176.335(4) was not complied with. This same presumption was also required in Arterburn v. State, 111 Nev. 1121 (1995).

One very important fact that points directly to bad motivation for this legislation is NRS 176.335(1). See Exhibit B attached. This statute requires triplicate certified copies of the JOC to be sent to NDOC. Should this legislature decide to pass AB 103 then NDOC would then have an unnecessary copy of the JOC and the clerk would be making one unnecessary certified copy of the JOC. This is a flat waste of resources. Therefore NDOC flatly does not care one iota about redundancy or waste. These are selfish, unthinking motives for requesting this legislation.

I have in fact sued to enforce compliance with NRS 176.335(4). This suit is pending in federal court. NDOC and director Crawford is in fact committing thousands of felonies and/or misdemeanors by not complying with NRS 176.335(4). See NRS 197.200 and 197.220 and NRS 239.310 and 239.320. The attorney general, both the outgoing Del Papa and the current Sandoval refuse to investigate these violations and is counseling NDOC to in fact continue to violate this law.

Since the NDOC has admitted in testimony before this body that they refuse to comply with the law, this body should deny this legislation on this ground alone as the NDOC comes before this body with "unclean hands". NDOC's position is apparently, "We have violated the law for decades please change it to conform to our practice, however if you refuse to change it we will not obey the law anyway"!! This is government by men not law.

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EXHIBIT H Senate Committee on Judiciary

Date: 04/30/03 Page 1 of 2

April 29, 2003

I have much in the way of support for why this is bad legislation should you wish to see it. I look forward to testifying and to your questions on March 17th.

The above text was basically a copy of the letter to the Assembly Judiciary Committee prior to the amendment out of that committee. The amendment still does not cure the problem. There is no requirement for the county clerk to in any way file the discharges in the individual criminal cases. If this bill is amended it is an absolute necessity that there be a record recorded in the clerk's office. Also the amendment does not cover those that have died in prison as the old 176.335(4) did. Additionally, NRS 176.335(1) is not being amended. Therefore a wasted copy is being sent to NDOC this a blatant waste the taxpayers should not have to pay for.

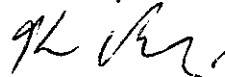
Even with the amendments suggested I am opposed to this bill. Glen Whorton of NDOC has come before the Assembly committee and lied to it. Saying that they cannot comply with NRS 176.335(4) and that they would have to add personnel if they were to comply with 176.335(4). I wrote a letter to NDOC advising them that they were committing thousands of felonies by withholding the JOC's pursuant to 176.335(4) and demanded certain records. In response I received Exhibit C attached. As you can see with Exhibit C, NDOC can comply with NRS 176.335(4) and has done so just this last month.

This points to one serious reason that NRS 176.335(4) should be left just the way it is. NDOC has blatantly disobeyed the law for decades. This behavior should in no way be rewarded by changing the law at their request!!

Our brothers and sisters, husbands and wives and sons and daughters have just lost their lives overseas fighting for freedom. Part of that freedom is the freedom to demand that civil servants obey the law that binds their actions. To change this law is tantamount to spitting on their graves.

AB 103 should and must be rejected. In the alternative 176.335(4) must at least be amended so that we the people can have access to those records and can obtain copies of those records.

Sincerely



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