

FILED

2011 JAN 18 PM 3:53

**MARY ANN GRAY
SADIE SULLIVAN
DIST. COURT CLERK**

1 Case No. CV 10071

2 Dept. No. 1

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8 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF LANDER

10
11
12 ELIZABETH BARELA,

13 Petitioner,

14 -vs-

**ORDER DISCHARGING
PETITIONER FROM CUSTODY**

15 RON UNGER, SHERIFF OF
16 LANDER COUNTY,

17 Respondent.

18 _____ /
19 This matter came before the Court this 18th day of January,
20 2011, on the Petition For Writ of Habeas Corpus having been filed
21 by Petitioner ELIZABETH BARELA, in the above-entitled matter.
22 Petitioner was personally present with her attorneys HY FORGERON,
23 Esq. and LOCKIE & MACFARLAN, by SHERBURNE MACFARLAN, Esq.
24 Respondent was present through Lander County Undersheriff Robert
25 Quick. No counsel appeared on behalf of Respondent. Witnesses
26 were sworn, testimony was taken, the matter was submitted to the

1 Court, and good cause appearing therefore, the Court makes the
2 following:

3 **FINDINGS OF FACT**

4 1. That a Warrant Of Arrest was issued and filed with the
5 Argenta Township Justice Court in Case No. 11-CR-00014 on January
6 5, 2011.

7 2. That Petitioner was arrested on the Warrant Of Arrest on
8 January 5, 2011, by Detective Will Dawson of the Investigation
9 Division of the Nevada Department of Public Safety and delivered
10 into the custody of Respondent, booked into the Lander County
11 Jail, and released on her own recognizance the same date.

12 3. That, by virtue of the said arrest, Petitioner was held
13 in the actual custody of Respondent until released on her own
14 recognizance. Since said release, Petitioner has been and is
15 currently being held in the constructive custody of Respondent.

16 4. That no criminal complaint or affidavit was filed in the
17 Argenta Township Justice Court prior to or contemporaneously with
18 the filing of the Warrant Of Arrest.

19 5. That no criminal complaint has been filed in the Argenta
20 Township Justice Court since the filing of the Warrant Of Arrest.

21 6. That there has not been presented to this Court any
22 showing of probable cause upon which Petitioner is being held in
23 Respondent's custody.

24 7. If any of the foregoing Findings of Fact are deemed to
25 be Conclusions of Law, the Court so concludes.

26

1 From the foregoing Findings of Fact, the Court makes the
2 following:

3 CONCLUSIONS OF LAW

4 1. That no legal cause has been shown for Respondent's
5 custody and detention of Petitioner.

6 2. That, pursuant to NRS 34.480, Petitioner is entitled to
7 be discharged from the custody or restraint under which she is
8 being held.

9 3. If any of the foregoing Conclusions of Law are deemed to
10 be Findings of Fact, the Court so finds.

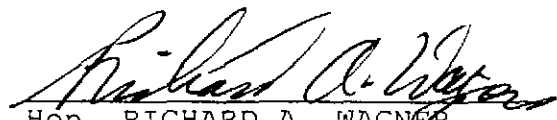
11 Based on the foregoing Findings of Fact and Conclusions of
12 Law, and good cause appearing,

13 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

14 1. That the Petition For Writ Of Habeas Corpus be, and the
15 same is hereby sustained.

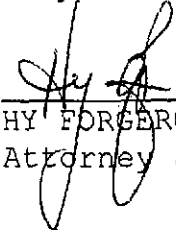
16 2. That Petitioner be, and she is hereby granted an
17 absolute and unconditional release from the custody of Respondent.

18 Dated this 18th day of January, 2011.

19
20 
21 Hon. RICHARD A. WAGNER
22 District Judge

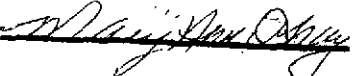
23 The undersigned hereby affirms the foregoing document does not
24 contain a social security number.

25 Prepared by:

26 
HY FORGERON, Esq., State Bar #2355
Attorney at Law

CERTIFIED COPY
The document to which this certificate is
attached is a full, true and correct copy of the
original on file and of record in my office.

DATE: January 18, 2011
Sadie Sullivan, County Clerk and Clerk of
the Sixth Judicial District County, in and for
the County of Lander, State of Nevada.

By:  Deputy

SPECIAL AGENDA

LANDER COUNTY COMMISSIONERS MEETING
TOWN BOARD OF BATTLE MOUNTAIN & AUSTIN
&
BOARD OF COUNTY HIGHWAY COMMISSIONERS

January 20, 2011

LANDER COUNTY COURTHOUSE
COMMISSIONERS CHAMBER
315 S. HUMBOLDT STREET
BATTLE MOUNTAIN, NEVADA

- 10:00 A.M. ~~Call to Order~~
- ~~Pledge of Allegiance~~
- ~~*Approval of Agenda Notice~~
- ~~Public Comment - For non-agendized items only~~

~~*DISTRICT ATTORNEY*~~

~~*(h)~~ Discussion and approval/disapproval of a resolution requesting the assistance of the Attorney General in the prosecution of a county employee, and other matters properly related thereto.

Public comment.

ADJOURN

*Denotes discussion and action item with information provided at the meeting. Action may be taken according to the "Nevada Open Meeting Law Manual" via a telephone conference call in which a quorum of the board members is simultaneously linked to one another telephonically. Members of the public may appear at the Battle Mountain, Nevada, Commissioner Meeting Room, Austin Courtroom in Austin, Nevada, or Kingston Community Hall, in Kingston, Nevada, to listen or participate in this meeting.

NOTE: TIMES ARE APPROXIMATE

This is the tentative schedule for the meeting. The Commissioners reserve the right to take items out of order to accomplish business in the most efficient manner.


Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the County Clerk in writing at the Courthouse, 315 So. Humboldt Street, Battle Mountain, Nevada 89820, or call (775) 635-5738 at least one day in advance of the meeting.

AFFIDAVIT OF POSTING

State of Nevada)
) ss:
County of Lander)

Donna J. Bohall, Senior Deputy Clerk, of said Lander County, Nevada, being duly sworn, says, that on the 14th day of January A.D., 2011, she posted a notice, of which the attached is a copy, at the following places: 1) Battle Mountain Civic Center, 2) Battle Mountain Post Office, 3) Lander County Courthouse and 4) Swackhamer's Plaza Bulletin Board, in said Lander County, where proceedings are pending.

DONNA J. BOHALL, SENIOR DEPUTY CLERK 

Subscribed and sworn to before me this 14th day of January, 2011. 

WITNESS 